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December 10, 2012

Honorable Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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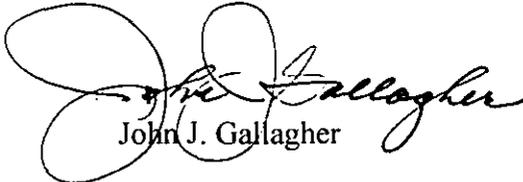
**Re: Investigation of Pennsylvania's Retail Electricity Market:  
End State of Default Service  
Docket Number I-2011-2237952**

Dear Secretary Chiavetta:

Enclosed please find an original copy of Pike County Light and Power Company's Comments in the above-captioned matter.

Should you have any questions concerning this filing, please contact me at your convenience.

Sincerely,



John J. Gallagher

*Counsel for Pike County Light and  
Power Company*

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                                 |   |                           |
|---------------------------------|---|---------------------------|
| Investigation of Pennsylvania’s | : |                           |
| Retail Electricity Market:      | : | Docket No. I-2011-2237952 |
| End State of Default Service    | : |                           |

**COMMENTS OF  
PIKE COUNTY LIGHT & POWER COMPANY**

On November 8, 2012, the Pennsylvania Public Utility Commission (“Commission”) issued a Tentative Order (“Order”) in the above-captioned matter seeking comments on a proposed end state of default electric service developed by the Commission’s Office of Competitive Market Oversight (“OCMO”). The primary purpose of the proposal is to improve competition in the current retail electric market. The Commission tentatively adopts OCMO’s proposed end state of default service and issues the plan for public comment. The Order directs interested parties to submit comments to the Commission within 30 days of the entry date of the Order.<sup>1</sup> In response to the Commission’s Order, Pike County Light & Power Company (“PCL&P” or the “Company”) sets forth below its general comments, as well as specifically addresses certain of the topics raised in the Order.

**General Comments**

Due to its unique characteristics and circumstances, PCL&P has demonstrated that the default service rules that apply to electric distribution companies (“EDCs”) generally should not

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<sup>1</sup> The Order was adopted and entered on November 8, 2012.

apply to PCL&P. The Commission has recognized PCL&P's distinctive features, as evidenced by the Commission's order in PCL&P's current default service plan granting waivers of certain default service regulations (See Attachment A).<sup>2</sup> These differences include a robust retail electricity market, small size, location and participation in a different regional transmission organization than all other Pennsylvania EDCs.

First, a majority of PCL&P's customers are already participating in the retail electricity market. Currently, approximately 62% of the customers in PCL&P's service territory take generation services from an Electric Generation Supplier ("EGS"). This is by far the highest penetration rate in the state. The majority of customers who take EGS service are served by Direct Energy Services, LLC ("Direct Energy"). Most of these customers took service from Direct Energy pursuant to an aggregation program ("Aggregation Program") initially approved by the Commission at Docket No. P00062205<sup>3</sup> and remained customers of Direct Energy upon the Aggregation Program's expiration on May 31, 2011.<sup>4</sup> The high penetration rate by EGSs in PCL&P's service territory testifies to the existence of a robust competitive market. Thus, the Order's fundamental goal of encouraging the development of a sustainable and robust competitive marketplace in Pennsylvania has to a great extent already been achieved in the PCL&P service territory.

Second, PCL&P is a small EDC serving approximately 4,700 residential and commercial customers in Pike County, Pennsylvania. For the twelve months ending October 2012, the

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<sup>2</sup> *Petition of Pike County Light & Power Company for Approval of Its Default Service Implementation Plan*, Docket No. P-2011-2252042 (Order entered May 24, 2012).

<sup>3</sup> *Petition of Direct Energy Services, LLC for Emergency Order Approving a Retail Aggregation Bidding Program for Customers in Pike County Light & Power Company's Service Territory*, Docket No. P-00062205 (Order entered April 20, 2006).

<sup>4</sup> *Petition of Pike County Light & Power Company for Expedited Approval of its Default Service Implementation Plan*, Docket No. P-2008-2044561. The Commission determined that customers in Direct Energy's Aggregation Program at the conclusion of the second renewal term should remain customers of Direct Energy unless they affirmatively choose either another supplier or PCL&P's default service program.

electric requirements of PCL&P's customers were 78,000 MWH, with a peak demand of approximately 17 MW.

Finally, PCL&P participates in a different regional transmission organization than all other Pennsylvania EDCs. PCL&P is a wholly-owned subsidiary of Orange and Rockland Utilities, Inc. ("O&R"). O&R provides electric service to approximately 225,000 customers in Orange, Rockland and Sullivan counties in the State of New York. Another subsidiary of O&R, Rockland Electric Company ("RECO"), serves approximately 73,000 customers in the State of New Jersey. PCL&P, O&R, and RECO operate a fully integrated electric system serving parts of Pennsylvania, New York and New Jersey (collectively referred to as the "System"). PCL&P receives all of its electricity through two 34.5 kV radial circuits that cross the Delaware River from Port Jervis, New York. Unlike the other utilities in the Commonwealth, PCL&P, by virtue of being a part of the System, operates in the New York Control Area that is administered by the New York Independent System Operator ("NYISO"). In contrast, the other Pennsylvania EDCs are members of the PJM Interconnection, LLC ("PJM").

Given its high penetration rate by EGSs, size and affiliation with the System and NYISO (rather than PJM), PCL&P is plainly a one-of-a-kind electric provider among Pennsylvania utilities. Because of these fundamental differences, PCL&P has not and should not be viewed in the same light as other Pennsylvania utilities on issues regarding default service protocols, procedures and requirements. Consequently, any proposals in the Order that the Commission adopts on a permanent basis should not affect any currently existing waivers for PCL&P relating to default service. Additionally, the Commission should exempt small EDCs such as PCL&P and/or EDCs with significant levels of EGS penetration from having to make some of the changes recommended in the Order, as discussed below, even in the absence of waivers.

## Guiding Principles

Recognizing the challenges EGSs face under the existing competitive framework, the Order identifies two basic problems that result from the current framework. First, during periods when market prices are lower than the EDC's price to compare ("PTC"), EGS offers are frequently driven by the PTC. In those circumstances, the EGS offers often remain close to the above-market PTC and consumers do not fully realize the benefits of the lower market prices. Conversely, when market prices rise, EGSs find it difficult to compete with a PTC that was developed over a longer period by an EDC who receives guaranteed cost recovery. According to the Order, a continuation of this structure exposes Pennsylvania to the risk that, when market prices increase, EGSs will exit the market and jeopardize retail electric competition in Pennsylvania.

In order to address this situation, the Order proposes to "fundamentally alter the default service product so that it more closely resembles market conditions."<sup>5</sup> The Order notes that one way to achieve this goal is through spot market pricing. The Order recognizes that, in addition to providing a more accurate price signal that should result in more sustainable competitive markets, spot market prices also result in the least cost to customers over time:

Generally speaking, data shows that spot market prices tend to produce the "least cost to consumers over time." This may be the case because lower risk premiums are included in spot market priced contracts due to the reduced uncertainty of recovery for wholesalers of costs related to generation and transmission services.<sup>6</sup>

As discussed in more detail below, PCL&P's current default service plan is based on spot market prices that already reflect market conditions. Therefore, with respect to PCL&P, the

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<sup>5</sup> Order, p. 12.

<sup>6</sup> Id.

Commission's stated objective has been met and there is no need to alter the Company's existing default service product.

### **Applicability of Proposed End State**

The end state for electric default service proposed under the Order should not be uniformly imposed on all EDCs. Instead, the Commission should recognize the unique characteristics and circumstances of EDCs, particularly small EDCs such as PCL&P. The Commission proposes to make the changes in the Order applicable to all EDCs -- regardless of their size or circumstances -- in order to make sustainable and robust competitive markets available to all electric customers. The Order seeks comments regarding the feasibility of implementing the proposed end state in smaller jurisdictional EDC service territories.

As discussed above, there are several important characteristics that set PCL&P apart from other Pennsylvania EDCs. These include an already competitive retail electric market with high EGS penetration; its small size; and the fact that PCL&P is part of the NYISO system rather than PJM. Given PCL&P's characteristics, the Order's proposed changes are not only unnecessary but, for reasons discussed in more detail below, these changes could potentially undermine the Commission's stated goals in PCL&P's service territory. Consequently, the proposed changes should not apply to small EDCs such as PCL&P and/or EDCs with significant levels of EGS penetration.

### **Default Service Product**

PCL&P's current default service plan (based on spot market prices) is already wholly consistent with the Commission's stated goal of creating EDC default service products that are

more market-based. Moreover, imposing the Order's proposals on PCL&P could undermine the very goals the Order seeks to achieve. For these reasons, the Order's proposals regarding a default service product should not be applied to PCL&P.

The Order proposes that EDCs offer default service products that are procured through auctions and offered to customers on a quarterly basis. Conducting a quarterly auction for physical supply does not make sense for Pike. Acquiring such a physical supply would require PCL&P to negotiate and enter into a contract with a merchant generator. Moreover, PCL&P would be required to pay an unjustified premium to the merchant generator, given the small size of the default service load to be served.

The Company's existing default service plan addresses the unique circumstances and characteristics associated with the PCL&P service territory. Despite the expiration of Direct Energy's aggregation program, Direct Energy will continue to have a significant presence in PCL&P's service territory. Direct Energy currently serves approximately 47% of PCL&P's peak load.<sup>7</sup> It seems likely that the majority of PCL&P's customers will continue to receive their generation service from an EGS. As of October 31, 2012, 38% of PCL&P's customers, and 41% of its peak load are served by PCL&P under its default service plan. In light of this situation, PCL&P successfully petitioned the Commission to continue its practice of procuring default supply on the NYISO spot market.

Specifically, for the period June 1, 2012 through May 31, 2014, PCL&P will continue to provide default service at spot market prices. Allowing the Company to continue this approach rather than imposing the Order's proposals is appropriate for two reasons. First, as previously

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<sup>7</sup> In addition, another EGS serves approximately 11% of PCL&P's peak load.

recognized by the Commission, the small size of the load served by the Company, combined with the large percentages of customers served by EGSSs, makes it exceedingly difficult to negotiate favorable generation supply contracts. Specifically, the Commission determined as follows:

We shall adopt the Company's proposal to continue the acquisition of default service supply entirely through the NYISO spot market for the following reasons. [PCL&P] serves only 4,700 customers and provides default service to approximately 1,300 or twenty-seven percent of these delivery service customers. We agree with [PCL&P] that, while its default service customer base has decreased over recent years, the costs of hedging supply for these remaining customers has and may continue to increase on a per-customer basis. The remaining default customers are already at risk of increased cost responsibility if their number declines by any significant degree, so to add the cost risk of a financial hedge would serve only as an increase in cost responsibility.<sup>8</sup>

Spot market purchases, in this instance, are the optimal and prudent solution from a least cost over time perspective.

Second, the implementation of an alternate default service strategy, such as the quarterly procurement proposed in the Order, would require that PCL&P provide an estimate of its default service load to interested counterparties. Unfortunately, PCL&P cannot provide a definitive estimate of its default service load. While it seems likely that the majority of customers currently receiving generation service from Direct Energy will remain with Direct Energy despite the expiration of the Aggregation Program, the Company cannot be sure. If PCL&P is required to estimate its default service load on a quarterly basis, it runs the distinct risk of overestimating such load. Overestimating the default service load involves a real risk of generating stranded costs, which would have to be absorbed by PCL&P's customers. As noted

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<sup>8</sup> *Petition of Pike County Light & Power Company for Approval of Its Default Service Implementation Plan*, Docket No. P-2011-2252042 (Order entered May 24, 2012), pp. 13-14.

above, the small size of PCL&P's load makes the full requirements, load-following contracts recommended in the Order difficult to procure. Given PCL&P's size and the outsized transactional costs of procuring quarterly contracts for such a small load, PCL&P requests that it be permitted to continue to procure default service supply on the NYISO spot market. In the alternative, if all EDCs (including PCL&P) are required to enter into quarterly hedging transactions, PCL&P requests that it be allowed to use its standard hedging methodology rather than a more costly auction platform. Under PCL&P's standard hedging methodology, the Company procures financial hedges throughout the course of the year for a specific time horizon, using standard products (typically offered by an exchange or bilaterally). Non-standard products normally come with a premium, while standard products do not because suppliers can easily make a market for the product and can easily hedge the product being offered. Load-following products are not standard products.

### **Portability of Benefits for Low-Income Customers**

PCL&P does not oppose the Order's proposal which seeks to give low-income customers the same opportunity to shop in the competitive market as non-low-income customers. PCL&P would note that its customers receiving assistance under the Low Income Heating Energy Assistance Program ("LIHEAP") already have the same ability to shop as other customers. Currently, 55% of LIHEAP customers receive supply from an EGS.

### **Supplier Consolidated Billing**

The Commission should not require EDCs to make costly and time-intensive changes that would be necessary in order to implement Supplier Consolidated Billing ("SCB"), particularly given the speculative nature of the benefits of SCB and the lack of consensus among EGSs for

the need for SCB. Although the Order does not articulate a specific proposal related to SCB, it does express an interest in further exploring how to make SCB available as a billing option for EGSs and third parties. The Order directs OCMO to provide by July 1, 2013, a recommendation to the Commission as to how to proceed with making SCB available.<sup>9</sup>

Apart from the many legal and logistical complexities related to SCB identified in the Order, there would be significant costs and technical obstacles to overcome. PCL&P would need to make extensive changes to its billing and EDI systems. These would include creating an entirely new Pennsylvania EDI environment for PCL&P.<sup>10</sup> PCL&P currently estimates that these changes could cost anywhere from \$2.9 million to \$3.7 million, with a 36 month implementation timeframe. PCL&P would note that there may be additional changes to other processes that have not yet been identified and have not been reflected in the above estimate. For an EDC such as PCL&P with relatively few customers, such costs would be especially onerous.

Balanced against these costs are the inherently speculative benefits of SCB. The Order suggests that EDC bills represent a “link” between utility and customer that acts as a barrier to developing a fully competitive market. The EGS experience in PCL&P’s service territory, however, would suggest otherwise. The EGS penetration rate in PCL&P demonstrates that fully competitive markets can be developed without the drastic cost impacts that would accompany the implementation of SCB. Moreover, as noted in the Order, there is a lack of consensus among EGSs as to whether SCB is necessary or useful. In light of the significant costs and speculative benefits of SCB, the Commission should not require EDCs to implement changes to make such

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<sup>9</sup> Order, p. 28.

<sup>10</sup> PCL&P currently has a waiver to use New York EDI rules and there are currently no suppliers offering consolidated billing in New York.

an option available. To the extent that the Commission does require EDCs to implement such changes, the costs of implementing such measures should be borne by the EGSs operating in the EDC's service territory so that current PCL&P customers are not forced to subsidize these costs with little to no benefit in return.

### **Accelerated Switching**

As discussed in the General Comments section above, to the extent that an EDC has existing waivers relating to its switching process, those waivers (to the extent not rendered moot by the new default service end state) should be permitted to continue and should not be affected by the Commission's Final Order in this proceeding. Additionally, the Commission's Final Order should not preclude the consideration of future requests for waivers and the granting of such waivers on a case-by-case basis.

From PCL&P's receipt of an enrollment from the EGS, the time required to switch an existing account from one EGS to another or to return the customer to default service, ranges from four to thirty-five days, depending on the customer's next scheduled meter read date. PCL&P would note that it has not received any complaints regarding the time it takes to switch a customer. Furthermore, PCL&P's switching processes have not been an impediment to retail competition, as evidenced by the high percentage of customers taking service from an EGS. PCL&P's switching practices are generally in effect in the Company's other service territories and predicated on following the New York Uniform Business Practices rules, which require that an EGS only enroll customers after a three day rescission period has expired. Any changes required of PCL&P to accelerate this switching process would require the Company to significantly modify the billing and enrollment systems that currently serve O&R, RECO and

PCL&P at considerable expense. Should the Commission decide that all EDCs are required to modify their enrollment processes, PCL&P proposes that all costs associated with such modification be borne by the EGSs operating in its service territory so that current customers are not forced to subsidize these costs with little to no benefit in return.

With respect to the related issue of “day one switching” or “instant connect” currently it is not feasible for new customers to be referred to EGSs without the Company incurring significant costs to implement such a program. PCL&P’s enrollment system is currently structured, so that both a customer account number and a billing record in its billing system are necessary in order to effectuate a switch to an EGS. Under the Company’s billing system, account numbers are not created until service actually commences. Due to the structure of the enrollment processes as designed and implemented by the Company, when customers initiate service with PCL&P, an account number is created, the customer receives utility service, and a billing record is established. The account number, in conjunction with the billing record, is required for the enrollment system to accept an EGS enrollment. The earliest this can occur is during the customer’s second billing cycle. This was the enrollment process throughout the Direct Energy Aggregation Program, where new customers would initiate service with PCL&P and then, assuming they did not elect to opt out of the Aggregation Program, would be switched to Direct Energy during the second billing cycle. In order to accommodate enrollment with the EGS at the initiation of service, PCL&P would be required to significantly modify the billing system that currently serves O&R, RECO, and PCL&P at considerable expense. Should the Commission decide that all EDCs are required to adopt this recommendation, PCL&P proposes: (1) referrals result in switches during the second billing cycle; or (2) all costs associated with modifying the Company’s billing and enrollment systems be borne by the EGSs operating in its

service territory; and (3) EGSs pay all of the costs associated with EDC customer service representatives referring customers to an EGS. EGSs should bear these costs so that current PCL&P customers are not forced to subsidize these costs with little to no benefit in return.

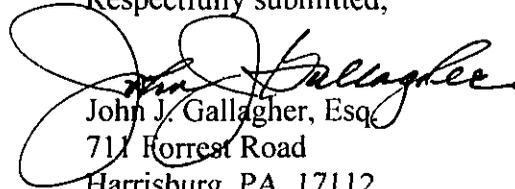
### **Statewide Consumer Education Campaign**

The Company does not oppose the consumer education proposal set forth in the Order. The Company would, however, urge the Commission to carefully weigh the costs and benefits of such efforts, particularly for smaller utilities (such as PCL&P) with fewer customers. In instances where benefits are outweighed by the costs, smaller utilities should not be required to undertake these efforts.

**Conclusion**

For the reasons provided above, PCL&P respectfully requests that the Commission affirmatively endorse the continuing need for PCL&P's existing waivers related to default service and exempt EDCs such as PCL&P from having to adopt some of the changes recommended in the Order, as discussed herein, even in the absence of waivers.

Respectfully submitted,



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Counsel for Petitioner  
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Date: December 10, 2012

## ATTACHMENT A

The following is a list of provisions relating to default service that have been waived for PCL&P under its current default service plan:

- Sections 54.185(d)(2) and 54.185(d)(6), relating to schedules and technical requirements of competitive bid solicitations and spot market energy purchases and relating to copies of agreements or forms used in the procurement of electric generation supply; and
- Sections 69.1805, 69.1805(1), 69.1805(2) and 69.1805(3), relating to procurement plans developed for particular rate classes and Section 69.1807(3), relating to bid solicitations along customer class lines.