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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation of Pennsylvania's Retail) Docket No 1-2011-2237952
Electricity Market)
End State of Default Service)

COMMENTS OF
VERDIGRIS ENERGY LLC

INTRODUCTION

By Tentative Order dated November 8, 2012 the Pennsylvania Public Utility Commission seeks comments from stakeholders regarding the above noted case.

A. Unfair licensing Fee

Verdigris Energy LLC specifically wishes to draw attention to and comment regarding Section O. Regulatory Costs and Assessments, Page 41, Footnote 16 "EGSs that do not take title to electricity and therefore are not liable for gross receipts tax, such as brokers and marketers, would pay a flat annual licensing fee of \$1,000."

Indiscriminately imposing the maximum fee on brokers/marketers/consultants that do not title to electricity, disregarding the amount of intrastate revenues is exorbitant and contrary to the stated goal of improving competition¹. It is the opinion of Verdigris Energy LLC that Pennsylvania already has the highest barriers to competition of all states that allow regulated competition in the electric utility industry and adding this exorbitant,

¹ The conclusion on page 42 of the Tentative Order states "The proposed end state of default service sets forth a default service model designed to improve competition in Pennsylvania's retail electricity market."

perennial fee will force many brokers/marketers/consultants out of the marketplace. Further, most brokers/marketers/consultants would be classified as small business. Sticking small businesses with the same or higher fees as large multinational companies is anti-competitive and unfair.

The Commission states, "The purpose of the annual EGS licensing fee would be to cover Commission costs associated with staff review of reports filed by EGSs, as well as the oversight of regulatory compliance issues and EGS bonding requirements." Imposing an indiscriminate maximum perennial licensing fee on brokers/marketers/consultants for this purpose is grossly unfair, as the administrative costs of regulatory oversight over brokers/marketers/consultants is negligible. This market segment, although classified as Electric Generation Suppliers (EGS), does not take title to electricity nor is it responsible for gross receipts taxes. Verdigris Energy LLC implores the Commission to enhance competition by waiving the annual licensing fee for EGS companies who do not take title to electricity or in the alternative, we pray the commission recognizes that brokers/marketers/consultants are primarily small businesses, and apply the revenue-adjusted licensing fee of 0.1% of revenue.

On Page 9 of the Tentative Order², the Commission notes that two thirds of rate payers have remained with their default service provider and “few innovative product offerings have emerged to date that attract customers into the competitive retail market.” At Verdigris Energy LLC, our fundamental role, as brokers/marketers/consultants, is helping end-use customers secure the lowest-cost supply available in the competitive market. Further, we assist business owners in understanding the subtle and important differences among competing EGS offers and work with EGS’s to develop innovative products for our customers. The market segment of *competition-enhancing brokers/marketers/consultants would be diminished by the Tentative Order as written.*

Verdigris Energy LLC concurs with the Commission’s belief that “the provision of energy efficiency programs to Pennsylvania’s electric ratepayers is sound public policy.” We ask the Commission to consider the role of brokers/marketers/consultants in this arena, as further reason to provide relief requested from the indiscriminate annual

² Tentative Order I-2011-2237952 A. Guiding Principles Page 9 paragraph 3 - “While shopping statistics alone are not indicative of the success of a competitive market, we note that, as of November 7, 2012, two-thirds of Pennsylvania’s electric customers still received electric generation supply from their DSPs. Despite a large number of EGSs in the market, many offers are only slightly below each EDC’s PTC and few innovative product offerings have emerged to date that attract customers into the competitive retail market.

As is discussed throughout this order, EGSs face any number of challenges to operate in the current competitive environment. The primary price signal provided to consumers is the EDC’s PTC. However, due to reconciliation and the mix of contracts that EDCs use to establish the PTC, EGSs must compete with a PTC that often is not correlated to wholesale energy markets and indeed may move in directions opposite that of wholesale energy markets trends. Other issues like the lack of an ability for EGSs to bill customers through S or the requirement that moving customers revert back to the DSP, may make the relationship between the EGS and the customer tenuous at best. The result may be customer confusion and hesitancy amongst EGSs to invest more resources.”

licensing fee. EE&C programs, while providing a positive benefit to society, also add a layer of complexity to the energy choices facing customers.

With the many changes associated with this Tentative Order, it appears all customer classes will be impacted. Change introduces new risks, and end-users will need unbiased and expert opinions on managing these new risks. Whereas suppliers, by their nature, are partisan when it comes to guiding end-users toward a particular product or service. Verdigris Energy LLC and other third-party brokers/marketers/consultants, play a vital role in helping end-users navigate these changes.

This will be especially impactful on small and medium C&I accounts, who cannot afford dedicated full-time energy management personnel. Consider the perspective of medium commercial and industrial (C&I) accounts who had remained on default service. They will be suddenly forced to face the prospect of the more volatile hourly LMP PTC, and lacking an in-house expert on energy supply issues, these end-users will incur an entirely new set of risks and offers from competing suppliers. Initiating a new EE&C program would be difficult in the face of such new uncertainty. An objective adviser such as the broker/marketer/consultant with experience in both competitive supply markets and EE&C programs can play a pivotal role in helping C&I accounts formulate a strategy to maximize the benefits of these programs. This is the domain of energy management consultants, most of whom are small businesses and licensed brokers.

Once again we pray the Commission reconsider indiscriminately imposing the maximum perennial licensing fee on brokers/marketers/consultants who do not take title to power as both unfair and harmful to public interest.

B. Education Campaign

The Commission feels it is necessary to institute an educational campaign to encourage residents and business owners about the benefits of electric shopping and using the Commission's online shopping and comparison tool, www.PAPowerSwitch.com and estimates a cost of at least \$15 million over three years.³

Verdigris Energy LLC suggests these costs could be mitigated and more evenly distributed. Suggestion include:

1. Require all EDS's and EGS's, who take title to power, to include a mention of the Commission's online shopping and comparison tool conspicuously in all marketing pieces including but not limited to all radio, television and print pieces as well as invoices. (There is precedent for requiring disclosures and inclusions in marketing materials and may align with the goals of consumer protection.)
2. Institute a fee for EGS's that take title to power based on a percentage of intrastate revenue as offered in the Tentative Order on page 41.

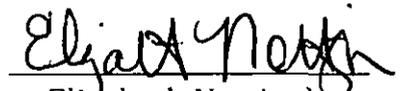
³ Tentative Order page 38 "The proposed campaign is estimated to cost \$5 million a year for at least three years."

Conclusion

Many states have looked to Texas as a successful model of deregulated electricity. The Public Utility Commission of Texas eliminated default service tariffs ("Price to Beat") at the end of 2004. Texas is considered a mature market and considered very business friendly. Texas has no such licensing requirements or fees for brokers/marketers/consultants.

We request that the Commission reconsider imposing the indiscriminate maximum perennial licensing fee or any on brokers/marketers/consultants who do not take title to power. We further request that the Commission not assess any other fees to EGS's who do not take title to power. We feel to do so will negatively impact small businesses and have a negative impact on competitive growth.

Respectfully Submitted



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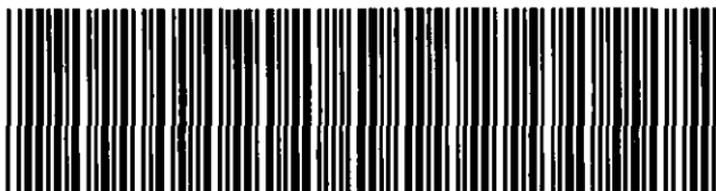
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