

**STEVENS & LEE**  
**LAWYERS & CONSULTANTS**

17 North Second Street  
16th Floor  
Harrisburg, PA 17101  
(717) 234-1090 Fax (717) 234-1099  
www.stevenslee.com

Direct Dial: (717) 255-7365  
Email: mag@stevenslee.com  
Direct Fax: (610) 988-0852

December 20, 2012

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company,  
Pennsylvania Power Company and West Penn Power Company For Approval of  
Their Default Service Programs  
Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669 and P-2011-2273670**

Dear Secretary Chiavetta:

Enclosed please find the Reply Comments of Washington Gas Energy Services, Inc. ("WGES") on the First Energy Companies' Revised Default Service Plan Retail Market Enhancement Programs.

Copies of these Comments have been served in accordance with the attached Certificate of Service. If you have any questions, please do not hesitate to contact me. Thank you.

Best Regards,

STEVENS & LEE

  
Michael A. Grun

cc: Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>JOINT PETITION OF</b>	:	
<b>METROPOLITAN EDISON</b>	:	<b>Docket Nos. P-2011-2273650</b>
<b>COMPANY, PENNSYLVANIA</b>	:	<b>P-2011-2273668</b>
<b>ELECTRIC COMPANY,</b>	:	<b>P-2011-2273669</b>
<b>PENNSYLVANIA POWER COMPANY</b>	:	<b>P-2011-2273670</b>
<b>AND WEST PENN POWER COMPANY</b>	:	
<b>FOR APPROVAL OF THEIR</b>	:	
<b>DEFAULT SERVICE PROGRAMS</b>	:	

**REPLY COMMENTS OF WASHINGTON GAS ENERGY SERVICES, INC.**  
**ON**  
**REVISED DEFAULT SERVICE PLAN RETAIL MARKET ENHANCEMENTS**  
**PROGRAM**

**I. Introduction**

Washington Gas Energy Services, Inc. (“WGES”), by and through its counsel, Stevens & Lee, P.C., hereby files these Reply Comments on the First Energy Companies’ Revised Default Service Plan Retail Market Enhancement Programs (“Revised Plan”). Specifically, WGES responds to the Comments of the Office of Small Business Advocate (“OSBA”) regarding the marketing of the Opt-in Aggregation Program to shopping customers and to the Comments of the Office of Consumer Advocate (“OCA”) regarding the EGS terms and conditions that are conveyed to eligible customers prior to the start of the Opt-in Aggregation Program. WGES also responds to the Comments filed by RESA regarding the structure and cost-recovery components of the Companies’ Revised Plan.

At the outset, it is important to remember that the Opt-in Aggregation Program and the Standard Offer Referral Program will only be successful if EGSs *actually participate in the*

*Programs.* If the costs to participate are too high, or if the Programs are structured in such a way that non-participating EGSs can leverage the benefits of the Programs without incurring any costs, few EGSs will actually participate, and the Programs will be failures. This reality must be kept in mind when evaluating certain proposals of the OSBA and OCA which may have good intentions, but which will undermine the viability of the Programs from an EGS perspective.

## **II. Reply to OSBA Comments Regarding Marketing to Shopping Customers**

The OSBA argues that the Companies' Revised Plan should include explicit notification and enrollment rules for shopping customers.<sup>1</sup> To that end, the OSBA proposes that the initial bill insert should include language that is specifically directed to shopping customers and providing those customers with directions on how to participate.<sup>2</sup>

Respectfully, the OSBA's suggestions misconstrue the very purpose of the Opt-in Aggregation Program and run directly contrary to the Commission's express statements regarding the marketing of the Aggregation Program to shopping customers. In its *Intermediate Work Plan Final Order*, the Commission determined that customers that are currently shopping should be eligible for Opt-in Aggregation Programs, but the Commission clearly stated that the intent of an Opt-in Aggregation Program is to "encourage shopping by those customers who, for whatever reason, have shown an aversion to shopping."<sup>3</sup> Because the focus of the Opt-In Aggregation Program is on those customers who have not shopped, the Commission stressed that "**all** marketing, notifications and consumer education efforts for Retail Opt-in Auctions should

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<sup>1</sup> OSBA Comments at p. 7

<sup>2</sup> *Id.*, at p. 8

<sup>3</sup> *Intermediate Work Plan Final Order*, Docket No. I-2011-22378952 (March 2, 2012), at pp. 41-42

be targeted to non-shopping, residential, default service customers.”<sup>4</sup> The Commission reiterated this position in its August 16, 2012 Order in the instant proceeding.<sup>5</sup>

Based on the Commission’s clear statements in the *Intermediate Work Plan Final Order*, customers who are already shopping should not receive a bill insert or any other marketing material regarding the Companies’ Opt-In Aggregation Program. The Commission has said that shopping customers would still be eligible to participate in the Program “if they become aware of it and request participation”<sup>6</sup>, but the Commission drew a clear line by excluding shopping customers from any and all marketing materials and notices regarding the Program. As such, the OSBA’s proposal to provide shopping customers with notification of the Program should be rejected. Adopting the OSBA’s proposal would undermine the Commission’s stated intent for the Aggregation Program and could result in significant participation by already-shopping customers, possibly to a level of participation which equals or exceeds that of non-shopping customers. This is not the purpose or the intent of the Aggregation Program.

## **II. Reply to OCA Comments Regarding Timing and Disclosure of EGS Offers**

The OCA states that it is important for customers to receive full disclosure of all terms and conditions of EGS offerings before customers sign up for the Opt-in Program.<sup>7</sup> The OCA indicates that it will endeavor to post all participating EGS offers on its website so that customers may “review all of the EGS offers that are submitted, not just the one that the customer received directly.”<sup>8</sup> While the OCA may have the best of intentions regarding the full disclosure of EGS offers up front and the posting of all EGS offers on its website, the OCA’s recommendations

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<sup>4</sup> Id., at p. 42 (emphasis added).

<sup>5</sup> See August 16, 2012 *First Energy Default Service Order*, at pp. 106-107

<sup>6</sup> *Intermediate Work Plan Final Order*, at p. 42

<sup>7</sup> OCA Comments, at p. 3

<sup>8</sup> Id., at p. 4

actually undermine the purpose of the Opt-in Aggregation Program and could result in EGSs simply declining to participate.

A critical component of an Aggregation Program is that each customer will be allocated to one EGS, and one EGS only, for enrollment. It is a uniquely designed, “eye-catching”, one-time program to increase customer participation in the competitive market by pairing customers with specific EGSs. It is not designed to encourage non-shopping customers to compare multiple EGS offers; in fact, one of the rationales for the program is to address the lack of willingness of some customers to undertake the comparative shopping process using already available resources. By voluntarily participating in this one-time Program, a customer will be assigned to an EGS, rather than affirmatively choosing a specific EGS, but the customer will be getting the benefit of special pricing for four months plus a \$50 bonus. Adequate protections are in place to protect participating customers, including the ability to leave the Program at any time with no penalty, and the full vetting of participating EGS offers by the Commission.

The OCA’s suggestion that full and complete 12-month EGS terms and conditions must be included in the initial mailing to customers is not feasible and not necessary. As RESA correctly noted in its Comments, it is unreasonable to expect EGSs to calculate the fixed price for the final eight months of the program at a point in time that is nearly six months in advance of the start of the fixed price portion of the program. RESA’s suggestion to announce the price terms for the eight-month fixed-price portion of the Program at the start of the 3<sup>rd</sup> month of the Program is reasonable and appropriate.

Furthermore, the OCA’s belief that customers should be able to view all EGS offers before deciding to participate in the Program misses the point of the Program. All of the EGS offers will be identical for the first four months of the Program. The uniform “discount off-of

PTC” for four months and the \$50 bonus are the features that are designed to attract customers to the Program. The remaining eight-month fixed price products will differ among EGSs to some extent, but those fixed-priced products will be fully reviewed by the Commission before they are offered and there will likely not be a great variance in prices between the various EGS offers. The OCA’s proposal to post all EGS offers on its website is based on the incorrect presumption that customers who participate in the Program will be expected to decide between multiple EGS offers. That is simply not the case, because the stated purpose of the Program is to allocate each customer to a specific EGS. The Commission has never directed that EGS eight-month fixed price offers will be sent to customers or posted on the OCA’s website prior to the start of the Program. To the contrary, in its Order in the PECO default service case, the Commission clarified that EGSs would not be required to file the terms and conditions of the eight-month product offering until at least 45 days before the offers for the eight-month fixed priced contract are extended to customers.<sup>9</sup> The Commission also stated that EGSs will not be required to submit their eight-month fixed price product terms for approval prior to the mailing of the initial customer offer letter.<sup>10</sup>

The OCA’s request to have full EGS price terms released up front and to post all of these offers on its website could doom the Program before it even begins. The Commission must recognize that there will be EGSs who will not participate in the Aggregation Program for cost or other reasons, but who will seek to leverage the marketing and publicity benefits of the Program to solicit the customers of those EGSs who do participate. If all EGS offers are publicly available, other EGSs can simply match the posted offers and attempt to market directly to

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<sup>9</sup> *Petition of PECO Energy Company for Approval of its Default Service Program*, Docket No. P-2012-2283641, Opinion and Order on Reconsideration entered November 21, 2012, at p. 27

<sup>10</sup> *Id.*

eligible customers without incurring the costs and other restrictions of the Program. In order for the Program to be successful, EGSs who commit to paying the costs to participate must know that they will be allocated a discrete group of customers who have opted-in to the program, without concern that large numbers of their allocated customers will simply choose another EGS once the four-month initial period is over.

As WGES stated in its Comments, the basic provisions of all of the EGS offers will be substantially similar and will be fully reviewed by the Commission prior to being offered to customers, therefore, it would be more efficient and effective to send the same initial mailer to all Eligible Customers to inform them that there is a special one-time offer available to them. The EDC would then assign responding customers randomly to EGSs until any applicable caps are reached (i.e., either Program caps or EGS designated participation caps). Then, each EGS would send its offer terms to the responding customers and complete the enrollment. Final prices for the 8-month fixed-price term would be conveyed during the third month of the contract. This process would allow for much simpler offer packets to customers up front, and would cut down on the ability for non-participating EGSs to attempt to match participating EGSs' offers without actually participating in the program.

### **III. Reply to RESA Comments Regarding Cost Allocation**

WGES echoes RESA's concerns regarding the cost allocation of the Programs, and WGES supports RESA's proposal to cap the per-customer cost that participating EGSs would bear. WGES agrees with RESA's statement that EGSs must have a known and certain fee structure in order to participate in the Program. RESA's cost allocation proposal is fair and reasonable and would likely result in much higher EGS participation than the Companies' cost recovery proposal. Under WGES's suggested Program design as set forth above, per customer

costs would be allocated based on the proportional share of customers that each participating EGS is assigned. EGS's who are assigned more customers would pay more costs. This would fairly allocate costs among participating EGSs and provide EGSs with a reasonable estimate of what the costs for participation will be.

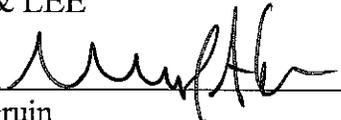
**IV. Conclusion**

For the reasons stated above, WGES respectfully requests that the Commission reject the suggestions of OSBA and OCA and modify the Companies' Revised Default Service Filing consistent with the recommendations herein.

Respectfully Submitted,

Dated: December 20, 2012

STEVENS & LEE

By:   
Michael A. Guin  
Attorney I.D. No. 78625  
17 North Second Street  
16th Floor  
Harrisburg, PA 17101  
(717) 255-7365  
mag@stevenslee.com

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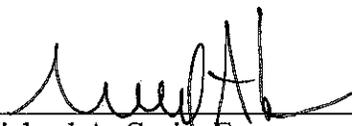
**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served by First Class U.S. Mail and Electronic Mail a true and correct copy of the foregoing Reply Comments upon the parties listed below, in accordance with the requirements of § 1.54 (relating to service by a party)

BRADLEY A BINGAMAN TORI L GEISLER FIRSTENERGY SERVICE COMPANY 2800 POTTSVILLE PIKE PO BOX 16001 READING PA 19612-6001	THOMAS P GADSDEN, ESQ. MORGAN LEWIS & BOCKIUS LLP 1701 MARKET STREET PHILADELPHIA PA 19103-2921
AARON BEATTY, ESQ. DARRYL LAWRENCE ESQUIRE OFFICE OF CONSUMER ADVOCATE 5TH FLOOR FORUM PLACE 555 WALNUT STREET HARRISBURG PA 17101-1923	DANIEL G ASMUS , ESQ. OFFICE OF SMALL BUSINESS ADVOCATE SUITER 1102 COMMERCE BUILDING 300 NORTH SECOND STREET HARRISBURG PA 17101
CHARLES DANIEL SHIELDS , ESQ. PA PUC BUREAU OF INVESTIGATION AND ENFORCEMENT PO BOX 3265 HARRISBURG PA 17105	DANIEL CLEARFIELD, ESQ. DEANNE M O'DELL, ESQ. ECKERT SEAMANS CHERIN & MELLOTT LLC 213 MARKET STREET 8TH FLOOR PO BOX 1248 HARRISBURG PA 17108-1248
BRIAN J KNIPE, ESQ. BUCHANAN INGERSOLL & ROONEY PC 17 NORTH SECOND ST, 15 <sup>TH</sup> FLOOR HARRISBURG PA 17101-1503	CHARIS MINCAVAGE, ESQ. SUSAN E BRUCE, ESQ. MCNEES WALLACE & NURICK 100 PINE STREET PO BOX 1166 HARRISBURG PA 17108

<p>THOMAS NIESEN, ESQ.          THOMAS, LONG, NIESEN &amp;          KENNARD          212 LOCUST ST          SUITE 500          PO BOX 9500          HARRISBURG PA 17108</p>	<p>PATRICK M CICERO, ESQ.          PENNSYLVANIA UTILITY LAW          PROJECT          118 LOCUST STREET          HARRISBURG PA 17101-1414</p>
<p>BENJAMIN L WILLEY, ESQ.          LAW OFFICES OF BENJAMIN L          WILLEY          7272 WISCONSIN AVENUE          SUITE 300          BETHESDA MD 20814</p>	<p>TODD S STEWART, ESQ.          HAWKE MCKEON &amp; SNISCAK LLP          100 NORTH TENTH ST          HARRISBURG PA 17101</p>
<p>DIVESH GUPTA          MANAGING COUNSEL -          REGULATORY          CONSTELLATION ENERGY          100 CONSTELLATION WAY          SUITE 500C          BALTIMORE MD 21202</p>	<p>TREVOR D STILES, ESQ.          FOLEY &amp; LARDNER LLP          777 E WISCONSIN AVE          MILWAUKEE WI 53202</p>
<p>THOMAS J. SNISCAK, ESQ.          HAWKE MCKEON &amp; SNISCAK LLP          100 N. TENTH STREET          HARRISBURG, PA 17101</p>	

December 20, 2012

  
 Michael A. Gruin, Esq.  
 PA ID No. 78625  
 17 North Second Street, 16th Floor  
 Harrisburg, PA 17101  
 717-255-7365 - Telephone:  
 610-988-0852 - Fax  
 mag@stevenslee.com