

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**Joint Petition of Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), and West Penn Power Company (West Penn) (collectively, the Companies) for Approval of their Default Service Programs for the Period Beginning June 1, 2019 through May 31, 2023**

**Public Meeting August 23, 2018  
2637855-OSA  
Docket No. P-2017-2637855, *et al.***

**JOINT MOTION OF COMMISSIONER DAVID W. SWEET AND  
VICE CHAIRMAN ANDREW G. PLACE**

Before the Commission for consideration are the Exceptions to Administrative Law Judge (ALJ) Mary D. Long's Recommended Decision regarding the Joint Petition of Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power) and West Penn Power Company (West Penn) (collectively, FirstEnergy) for the approval of their default service programs for the period June 1, 2019 through May 31, 2023. A Joint Petition for Partial Settlement was filed in this proceeding, the approval of which was recommended by the ALJ. However, multiple issues remain contested, including, but not limited to, the manner in which customers in FirstEnergy's Customer Assistance Program (CAP) participate in the competitive retail market and the appropriate scripting for FirstEnergy's Customer Referral Program (CRP). As outlined in this joint motion, we recommend that the issues of implementation of a CAP shopping program and the appropriate scripts for FirstEnergy's CRP be referred to the Commission's Office of Competitive Market Oversight (OCMO) for discussion with stakeholders and the submission of recommendations.

Regarding the issue of CAP shopping, the ALJ recommended that FirstEnergy be required to implement a CAP shopping program that prohibits customers who wish to participate in CAP from entering into a contract with an electric generation supplier (EGS) for a price that exceeds the utility's Price to Compare (PTC).<sup>1</sup> She recognized the evidentiary support showing that unrestricted CAP shopping in FirstEnergy's service territory was harming both CAP and non-CAP residential ratepayers.<sup>2</sup> The ALJ recommended that the Company's proposed CAP shopping program be phased in using the schedule advocated for by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and agreed upon by FirstEnergy.<sup>3</sup> The Retail Energy Supply Association (RESA) filed Exceptions to this decision and argued that the ALJ erred

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<sup>1</sup> R.D. at 71.

<sup>2</sup> *Id.* at 69.

<sup>3</sup> *Id.* at 71.

in discounting the value of shopping to CAP participants and by directing specific restrictions on the ability of CAP customers to shop.<sup>4</sup>

We reject RESA's claim that the ALJ erred in this finding. As noted by the ALJ, there is clear evidence demonstrating that a significant number of FirstEnergy's CAP customers paid significantly more than what they would have if they were default service customers. As outlined by the Commission's Bureau of Investigation and Enforcement (I&E), this is important since the generation rates charged to FirstEnergy's CAP customers affect the asked-to-pay amounts for those customers since their monthly maximum CAP credits are based upon their average monthly electric burden less a percentage of their income. Therefore, higher rates make it more likely that CAP customers will exceed their monthly maximum CAP credits and incur charges they may not be able to pay.<sup>5</sup> If CAP customers are unable to pay their bills, this leads to increased uncollectibles, which are recovered from the rest of the utility's residential ratepayers. As such, it is necessary to impose some restrictions on FirstEnergy CAP customer shopping in order to protect both CAP customers and the non-CAP residential rate base from increased and unnecessary costs.

We agree with the ALJ's recommendation that FirstEnergy implement a CAP shopping program where CAP customers may only enter into a contract with an EGS for a rate that is at or below the utility's PTC and does not contain an early termination or cancellation fee. However, we find that the mechanics and details of this program are not fully developed within the record of this proceeding to adequately ensure a program can be implemented in a successful fashion by June 1, 2019. Therefore, the ALJ's recommendation should be adopted in so far as EGSs may not charge CAP customers a rate greater than the PTC, nor charge early termination or cancellation fees.<sup>6</sup> However, we propose referring the program to OCMO to work with stakeholders on the details of the program in order to ensure a successful implementation. We request that OCMO provide its recommendations to this Commission by the end of January 2019.

Similarly, we propose the referral of the scripting for FirstEnergy's Customer Referral Program (CRP) to OCMO for its recommendations. The CRP is a voluntary program where a customer may be enrolled with an EGS at a rate that is 7% below the then-effective PTC for a period of 12 months with no early termination or cancellation fees. The Office of Consumer Advocate (OCA) expressed concerns with the scripting and training materials currently in use, arguing that they do not provide sufficient education and disclaimers. The OCA further claims a multitude of issues remain, including concerns that the description given to customers prior to enrollment is misleading and customers do not experience the advertised savings.<sup>7</sup> RESA averred that the scripting program changes implemented under FirstEnergy's current default service plan (DSP IV) most likely had a significant negative impact on the number of enrollments in the program as there has been an 88% decrease in monthly enrollments since their implementation. RESA recommended that: (1) FirstEnergy revert to using the scripts that were in place prior to the DSP IV settlement; (2) the parties convene a working group to investigate the causes of the decline in enrollments and revise the scripting; and (3) FirstEnergy invite AllConnect to participate in the

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<sup>4</sup> RESA Exceptions at 12-15.

<sup>5</sup> Bureau of Investigation and Enforcement (I&E) St. 1 at 18.

<sup>6</sup> The issue of whether the EGS rate must be below the PTC at the time of contracting, or below that and all future PTCs, is within the scope of this referral to OCMO.

<sup>7</sup> OCA St. 2 at 3-4 and Exceptions at 8.

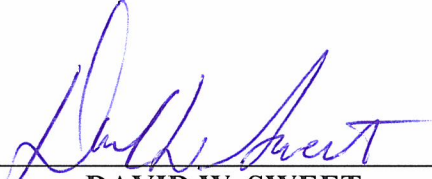
working group.<sup>8</sup> The ALJ recommended the continuation of FirstEnergy's existing CRP until the conclusion of the default service plan currently before us. The ALJ found that the script adequately describes the relationship between the PTC and the price offered through the CRP and directed the use of the existing script.<sup>9</sup> However, the ALJ acknowledged the benefit of a stakeholder meeting to discuss the scripting issue and encouraged FirstEnergy to have such a meeting in preparation for its next default service plan proposal in 2023.<sup>10</sup>

We concur with RESA in that we should refer this issue to a working group, which will be led by OCMO, as OCMO has the resources and expertise to address this scripting issue, consider the consumer protection concerns of the OCA, as well as the competitive concerns expressed by RESA. We have concerns, however, with deferring OCMO's work product to 2023, as envisioned by the ALJ, and instead request that OCMO submit, by the end of January 2019, its recommendations to this Commission for its consideration.

We believe the timeframes included herein provide both OCMO and the participating stakeholders with the time necessary to thoroughly and thoughtfully consider and provide recommendations on these two issues, while still allowing FirstEnergy the time needed to implement both programs effectively by June 1, 2019.

**THEREFORE, WE MOVE THAT:**

1. The Exceptions of the Retail Energy Supply Association be granted in part, consistent with this Motion.
2. The issue of FirstEnergy's CAP shopping program be referred to the Commission's Office of Competitive Market Oversight for further review and analysis with a recommendation provided to the Commission by the end of January 2019.
3. The issue of scripts for the Customer Referral Program be referred to the Commission's Office of Competitive Market Oversight for further review and analysis with a recommendation provided to the Commission by the end of January 2019.
4. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

  
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**DAVID W. SWEET**  
**COMMISSIONER**

  
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**ANDREW G. PLACE**  
**VICE CHAIRMAN**

**Date: August 23, 2018**

<sup>8</sup> RESA St. 1 at 19-22 and Exceptions at 3.

<sup>9</sup> R.D. at 61.

<sup>10</sup> *Id.* at 63.

