

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Provider of Last Resort (POLR) Roundtable : Docket No. M-00041792

COMMENTS OF CALPINE CORPORATION

Pursuant to the Pennsylvania Public Utility Commission's ("PaPUC" or "Commission") March 18, 2004 Secretarial Letter in the above-captioned proceeding, Calpine Corporation ("Calpine") hereby offers its comments. Calpine is an independent power producer actively involved in the development, operation and ownership of electric generators and the marketing and sale of electric power throughout the United States. Calpine has a fleet of nearly 90 natural gas-fired and geothermal power plants with a capacity of more than 22,000 megawatts (MW), with approximately 560 MW of baseload and 584 MW peaking capacity from the Ontelaunee Energy Center gas-fired plant in Ontelaunee Township in eastern Pennsylvania. The Ontelaunee plant began commercial operation in late 2002.

Calpine appreciates the opportunity to provide information to assist the Commission's efforts to develop regulations that will govern the POLR suppliers' post-transition obligation to serve customers whose chosen electric generation supplier ("EGS") does not deliver the energy or customers who choose not to shop for competitive generation service.

Overall Goals

Calpine believes that the overriding goal of POLR service should be to obtain a dependable power supply for POLR customers (customers who are unable to or choose not to purchase power competitively) by fairly evaluating the full range of resource alternatives offered in wholesale power markets. In addition, certain classes of POLR customers, such as residential customers without access to adequate competitive choices or low income customers, should also

be able to obtain dependable supply that provides stable, competitive pricing for a reasonable term.

Calpine believes that these goals can be accomplished in a way that also provides price signals for new generation capacity to be built, when required. To facilitate this, electric distribution companies (“EDCs”) acting as POLR suppliers should be required to procure power competitively to serve all POLR customer load. The market test is the only way to know if customers are getting the best deal. Evidence clearly shows that there have been favorable results when utilities competitively procure power to serve their load. While Pennsylvania has been blessed in the short run with abundant generating resources, there will come a time when a capacity deficit or system reliability concerns will exist. It is within the Commission’s power and the Commonwealth’s best interest to address both capacity and system reliability concerns when considering new POLR rules. Such forethought could contribute to rules that will truly stand the test of time.

Calpine believes that longer term competitive procurement is better at promoting the development of new generation and fostering economic development. As such, we request the Commission consider the concepts Calpine proposes in its comments concerning issues identified by the PaPUC when determining any final rules in this docket.

I. Scope of POLR Service: “[T]he commission shall promulgate regulations to define the electric distribution company’s obligation to connect and deliver and acquire electricity.” 66 Pa. C.S. §2807(e)(2) (emphasis added).

Calpine believes that a competitive RFP/ competitive bidding approach provides the best assurances that appropriate POLR customers will benefit from the existence of the of the competitive wholesale electric markets. Calpine is concerned that some rigid forms of auctions reduce the flexibility of participants to offer innovative products that may better serve long term POLR customers, stifle creativity and discourage development of new capacity. For example, a

longer term product wherein customers elect not to switch providers for some term could provide a significant cost reduction by eliminating migration costs typically added to bids by potential suppliers. Calpine believes such flexibility is appropriate in as much as migration rates for certain customer classes have not increased significantly as competition has evolved.

Additionally, with some forethought the PUC could use a progressive POLR RFP process for longer term customers to mitigate resource adequacy concerns by allowing for longer term procurements as conditions warrant. In summary, competitive procurement:

- ensures customers get the best deal possible
- provides price transparency
- transfers price and volumetric risks to bidders

II. Qualifications for POLR: A POLR may be either an “electric distribution company or commission-approved alternative supplier.” 66 Pa. C.S. §2807(e)(3)

Although it may make sense for the EDC to continue to serve for a short time as the POLR given the state of today’s market, the Commission should not close the door forever to some entity other than the EDC being the POLR supplier. Because markets are dynamic, the Commission should open the possibility for others to step into this role when it makes sense to do so. Calpine suggests that for new POLR obligations arising subsequent to January 2006 (after the expiration of current EDC obligations), competitive bidding be used to award that role to one (or more) new POLR providers, which may or may not be the incumbent EDC. For all the reasons stated above, competition is good for consumers. Of course, the incumbent EDC’s role as metering, billing, and transmission and distribution entity does not have to change to facilitate such a competitive environment. Safeguards need to be in place to ensure that an incumbent EDC does not have a competitive advantage over new market entrants due to its service as transitional POLR provider to date. Should the Commission choose to allow the

incumbent EDC to remain as the POLR, Calpine suggests that the competitive bidding model discussed in Issue I be utilized to ensure that the benefits of competition be brought to POLR service.

III. POLR Service Models

Regulatory guidelines for the competitive procurement process should be clearly established before procurement mechanisms are applied.

The essential ingredients of a competitive procurement process include:

- a fair, open and transparent procedure
- an Independent Evaluator (especially when EDC affiliates are involved)
- fair and commercially reasonable credit requirements. The Commission should

establish rules to ensure nondiscriminatory application of credit terms, conditions and obligations.

- a fair method of comparing bids with unequal lives
- flexibility to allow longer term contracts

IV. Terms and Conditions of POLR Service: A POLR shall treat a shopping customer who returns to POLR service “exactly as it would any new applicant for energy service.” 66 Pa. C.S. §2807(e)(4).

Unless an EDC requires new applicants to take service for a certain term, generally requiring shopping customers who return to POLR service to stay on POLR service for a fixed term before being permitted to shop again (or requiring the payment of an exit fee, such as a generation rate adjustment (“GRA”) before they can shop again) would seem to be prohibited by his provision of the Electric Choice Act. However, Calpine believes that permitting customers to use POLR service as a hedge (that is, as a call option when their competitive service gets too high) places an unfair burden on the POLR supplier. To address this concern, Calpine suggests

that switching restrictions are appropriate to prevent customers from “gaming” the market. Calpine prefers seasonal rates over mandatory stay requirements or GRAs to address “gaming” opportunities.

V. Full Recovery of Reasonable Costs: A POLR shall “recover fully all reasonable costs” for its POLR related service. 66 Pa. C.S. §2807(e)(3)

If the POLR provider does not provide fixed pricing for the term of POLR service, the POLR supplier should be fully compensated for its role in obtaining and managing a competitively procured portfolio of supply for POLR customers.

VI. Adjustment and Reconciliation of POLR Rates

POLR rates should only be adjusted at RFP intervals – POLR rates could be fixed if this obligation were bid.

VII. Default of POLR Service Provider

The risks of default by the POLR supplier should be addressed in a fair and commercially reasonable and nondiscriminatory manner through the rules for competitive procurement.

VIII. Implementing POLR Rules/ Transition Issues

While Calpine believes the nature of the POLR obligation should be uniform for all existing major Pennsylvania EDCs, a process that provides for POLR plans to be tailored to an EDC’s specific circumstances is acceptable as long as the utilities are required to competitively procure POLR supply.

Respectfully Submitted,

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