Office of Small Business Advocate Comments in POLR Roundtable Discussions

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Background

- Numerous presenters implied that POLR rates should be "**as ugly as possible**" in order to drive customers into the competitive marketplace.

  Not surprisingly, such a scenario would be good for marketers.

  <u>However, it is not mandated by the Act.</u>

Background (contd.)

- The floor debate in the House and Senate verifies that legislative supporters and opponents of the Act started with the same stated goal: to reduce rates. No participant suggested that the PUC should require or permit artificially high POLR rates in order to stimulate competition.

Background (contd.)

- Competition was the means to an end (lower electric rates) and not the end itself.
- In short, the General Assembly approved the Act to benefit consumers—not to benefit marketers.

Language of the Statute

"The purpose of the Competition Act is clear: to relinquish the local utilities' monopoly control over the generation of electricity and to invite competition in an effort to lower electric generation rates for the citizens of this Commonwealth." (emphasis added) Indianapolis Power & Light Company v. Pennsylvania Public Utility Commission (citation omitted).

Language of the Statute (contd.)

Test for determining compliance with the Act is whether POLR is acquiring energy at prevailing market prices and **not** how many customers are shopping.

Language of the Statute (contd.)

"The ultimate choice of the electric generation supplier is to rest with the consumer." See 66 Pa.C.S. §2806(a).

Nowhere does the Act explicitly or implicitly empower the PUC to influence that choice by making POLR rates "as ugly as possible."

Instead, the Act requires that electric service be "available to all customers on reasonable terms and conditions." (emphasis added) See 66 Pa.C.S. §2802(9).

Language of the Statute (contd.)

A POLR is in compliance with the Act if the POLR is acquiring the needed quantity of energy from a reliable generator at a price equal to the lowest available offer—even if other marketers or generators are unable to compete with that price.

Key POLR Principles

- **EDC = POLR**
  - (1) Consumers, the PUC, and elected officials would look to the EDC to keep the lights on if a marketer were designated as the POLR but were then to default.
  - (2) The bulk of potential savings to consumers because of the Act will result from competition at the wholesale level.
  - (3) EDCs are more likely to respond to the PUC's directives than are marketers.

Key POLR Principles (contd.)

- **Wholesale Competition**

  The POLR should acquire energy through an open competitive auction or RFP. To get the lowest prices for consumers, a generating entity affiliated with one EDC should be permitted to bid to supply energy to any or all EDCs, including its own affiliate. Each winning bidder should deliver energy to the POLR under a load following contract and without reconciliation.

Key POLR Principles (contd.)

- **Small Business Rate Structure**

  1. Process

At the time of restructuring, small business customers generally were paying rates in excess of the cost of supplying energy to them.

The restructuring process did not correct that inequity because the Act prohibits interclass shifting of stranded costs during the transition period. <u>See</u> 66 Pa.C.S. § 2808(a).

However, perpetuation of this cost misallocation beyond the transition period would be inconsistent with basing POLR rates on market prices.

Therefore, at a minimum, the POLR regulations should not permit a wholesale price to be allocated at the retail level on the basis of either an EDC’s last approved cost-of-service study or an across-the-board adjustment to existing class generation rates.

Key POLR Principles (contd.)

- **Small Business Rate Structure**

Before it submits a bid to provide POLR energy, each EGS should know:

(1) exactly how wholesale prices will be translated into retail rates;

(2) the size and load profile of each rate class; and

(3) whether there will or will not be demand charges, declining rate blocks, and seasonal rate differentials.

If those issues are not resolved prior to the wholesale acquisition process, POLR rates are likely to include unnecessarily high risk premiums.

Key POLR Principles (contd.)

- **Small Business Rate Structure**

  2. Switching Restrictions

For a variety of reasons, the smallest commercial customers are unlikely to shop—and are, therefore, unlikely to create switching costs.

Relaxation of switching rules would saddle these non-shopping customers with higher POLR rates.

Key POLR Principles (contd.)

- **Small Business Rate Structure**

Numerous presenters recommended seasonal rates as an alternative to switching restrictions. However, seasonal usage is only one factor in designing rates.

Seasonal rates can be revenue neutral on a class basis. However, they are unlikely to be revenue neutral on an individual customer basis because many business customers can not shift consumption from one season to another.

Key POLR Principles (contd.)

- **Small Business Rate Structure**

  3. Fixed Prices

Small businesses need to be able to predict their costs in order to set the prices they charge for their own goods and services.

Accordingly, POLR service should offer prices to small businesses which are fixed for no less than one year.

Key POLR Principles (contd.)

- **Small Business Rate Structure**

Ironically, at the same time they called for adjustable POLR prices, some marketers also trumpeted the fact that they offer multiple-year fixed prices to shopping customers. Marketers make such offerings because they know that is what the vast majority of customers want. Nothing in the Act mandates adjustable POLR rates as an incentive for customers to buy fixed rate service from marketers.

CONCLUSION

The proper yardstick for measuring the Act's success, now and after implementation of the POLR regulations, is whether rates are lower than they would have been under rate base/rate of return regulation.

Any Questions