

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA**

The Energy Association of Pennsylvania (“Energy Association”) on behalf of the eleven investor-owned electric distribution companies (“EDCs”) in the Commonwealth files these Reply Comments to the issues raised during the Pennsylvania Public Utility Commission’s (“Commission”) Roundtable sessions at the above docket.

Introduction

The Energy Association commends the Commission on the Roundtable sessions and believes that the five sessions were very informative and thorough in addressing the numerous topics associated with the complex issue of developing post transition POLR obligations and the associated regulatory process.

The POLR roundtables led to presentations by 27 organizations plus another 25 additional sets of comments have been filed by participants in the proceeding. This volume of work provides the Commission with background and policy so as to ascertain

what information needs to be considered in the next phase of this process – development of POLR regulations. The Energy Association submits that many participants shared similar views on some fundamental issues that will be discussed below. In addition, the participants provided the Commission with policy issues that can be incorporated into the Commission’s determination of the POLR obligations while maintaining flexibility in how each EDC will be able to handle the POLR obligation in its service territory. The threshold issue for the Commission is to separate these issues between those that must be resolved now versus those that should remain fluid so that POLR policy can adjust to the evolving needs of the participants.

Comments

1. Fundamental POLR Principles

The Energy Association supports the comments of the participants who advocated the position that the purpose of the Electric Generation Customer Choice and Competition Act (“Competition Act”) and its provision for POLR service was to support customers’ ability to obtain electric service at prevailing market prices. The Energy Association agrees with the Consumer Advocate and the Advocate for the industrials that the purpose of the POLR provisions is not to make POLR service so arbitrarily “ugly” as to force customers to alternative suppliers. However, a POLR rate must reflect all the costs related to being the ultimate provider of last resort. An artificially low rate will destroy not only current competitive markets but future ones as well.

The Energy Association also supports the position that the EDC should serve as the POLR provider. The majority of participants at the Roundtable sessions acknowledged that the EDC always retains the risk of having to meet their customer’s

generation supply needs regardless of contractual arrangements with alternative “POLR” suppliers. The Commission should confirm in its regulations that the EDC will continue as the POLR service provider. The Commission has asked the question of whether other entities should be permitted to be a POLR service provider. At this juncture, the answer to that question would be No, unless an EDC requests to be relieved of the function. The Commission may not be able to oversee other service providers or allocate costs to such entities. While others may purport to have served elsewhere as EDCs, it is the current Pennsylvania EDCs who have qualified as being fit, willing and able to comply with Pennsylvania standards, and further are the ones with ownership of the facilities, the expertise to operate the Pennsylvania electric grid, and the familiarity with Pennsylvania’s consumers.

The POLR model should be a wholesale model, in contrast to a retail model, where the generation supply is obtained by the EDC through an appropriate procurement process. The EDCs have the experience, knowledge and systems in place to carry out the customer care functions. The retail functions of the POLR (customer care, billing, etc.) should remain with the EDC. The Commission’s POLR regulations should address the general policy goals of POLR service, filing requirements and the availability of multiple supply procurement methods. In addition, by order, the Commission should provide procedural guidance to the industry on how each EDC’s POLR plan should be implemented.

A large number of participants stressed that the Commission’s regulations should recognize and permit flexibility to deal with the constantly changing and fast pace nature of the wholesale power markets. The Commission, EDCs, EGSs, and customers need to

be able to react in a timely fashion to changes in market conditions. If Pennsylvania POLR regulations codify the Commission's position on all POLR issues, adjustments could not be made to address and react to existing market conditions. As the Association's testimony reiterated, there were issues fully litigated and resolved at the opening of restructuring that became of little consequence due to the passing of time and changing of circumstances.

The Energy Association submits that the regulations should provide the EDC with options as to which procurement model can be used to meet its POLR obligation. A number of models were discussed during the proceedings, a competitive request for proposal (RFP), a competitive auction, negotiated PPA contracts, or a combination of models. Sufficient process should be set in place to allow an EDC to pursue an auction option. The Commission's regulations should provide for a review and approval process for each EDC's selected model. The regulations should not, however, require an after the fact prudence review of the model that compares POLR plans to EGS offerings or some hypothetical portfolio result. The Commission rules should permit EDCs affiliates to participate with the appropriate safeguards. Restructuring, rate caps, geography and generation resources, and size all separate EDCs from one another. The Legislature and this Commission have wisely permitted different paths to be charted by each EDC. POLR should be no different.

2. POLR Definitions

The Energy Association submits that the Commission's regulations should include a comprehensive set of POLR definitions including the definition of POLR itself.

As evidenced in the presentations during the Roundtables, there are a variety of terms that are unique to POLR service. A common understand of terms such as risk premium, seasonal rates, prevailing market price is critical. All participants must understand these terms and use them consistently to avoid unnecessary disputes in the future POLR proceedings.

The Energy Association believes that the flexibility accorded an EDC POLR service provider should be extended to permit either one POLR service or multiple offerings that hypothetically could have aspects of green power, demand-side response, RPS or other inclusions that may broaden or expand the marketplace.

3. Rulemaking Process

The Commission's staff has undertaken a significant effort to become fully conversant regarding how other states have proceeded. The Energy Association congratulates them on this effort and would suggest that we maximize this expenditure of time and resources by having them proceed through a publicly noticed staff presentation of draft proposed regulations. All the parties to this proceeding would then comment both orally and in writing and could further ask questions and exchange ideas with other parties. After this public input the Commission should issue a proposed rulemaking for comment. This process would complement the very beneficial process the Commission has used to date in this docket, wherein the Commission permitted all parties to learn from a continuous supply of well thought out presentations.

4. Conclusion

The Commission needs to establish the EDCs as the POLR service provider. The EDCs have the experience dealing with customers and have demonstrated expertise to deliver energy in a responsible matter. Definitions should be established and flexibility should be accorded all EDCs regarding the type and number of POLR service offerings. Finally, the Commission's staff knowledge should be maximized as a starting point for a further exchange of ideas on what matters to decide prior to the proposed rulemaking.

The Energy Association of Pennsylvania appreciates the opportunity the Commission has provided for comment upon these important regulatory issues.

Respectfully submitted,

J. Michael Love
President and CEO
Energy Association of Pennsylvania

Dan Regan
Vice President & General Counsel
Energy Association of Pennsylvania