

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking Re Electric Distribution Companies' :
Obligation to Server Retail Customers at the : Docket No. L-00040169
Conclusion of the Transition Period Pursuant :
to 66 Pa. C.S. §2807(e)(2) :

**COMMENTS OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA
ELECTRIC COMPANY AND PENNSYLVANIA POWER COMPANY ON PROPOSED
DEFAULT SERVICE REGULATIONS**

I. Introduction

Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company, collectively the FirstEnergy Operating Companies (“Companies”) submit the following comments on the Pennsylvania Public Utility Commission’s (“Commission”) proposed regulations governing the provision of default supplier service. Default service is provided to customers who take service from the electric distribution company (“EDC”) at the conclusion of the electric industry restructuring transition period when generation service rate caps expire. The Companies filed extensive comments in the Roundtable docket that preceded the issuance of proposed regulations.

The regulations address many of the issues raised in the Roundtable discussions in a manner that is satisfactory to the Companies. For example, the timing and substance of implementation plans and the proposed commission review process is appropriate and reasonable. Also, the EDC’s appear to have been given sufficient guidance, as well as flexibility, to formulate a default service plan that meets the needs of their service territory. However, there are at least two areas of concern relating to default service rates where the Companies request that the Commission reconsider its proposal and modify the regulations. The two issues addressed by these comments are the limitations imposed by the proposed regulations

on reconciliation of the Generation Supply Charge by §54.187(a) and the specification of the customer service charge, described in § 54.187(a)(2).)

II. The Proposed Generation Supply Charge should be subject to reconciliation

The proposed default service regulations set forth three basic rates through which the EDC is to recover the reasonable costs of providing default service as required by Section 2807(e)(3) of the Public Utility Code. Those rates are the Generation Supply Charge, the Customer Charge and a third automatically adjusted rate component to reflect the costs incurred due to compliance with Act 213, the Alternative Energy Portfolio Standard Act. The regulations also permit the default service provider to include in their implementation plans a rate mechanism that allows rate adjustments due to undefined significant changes in the number of default service customers or incremental costs where absent a rate adjustment, the reliable provision of default service would be “prejudiced”. (§54.187(g)). However, the proposed regulations include a prohibition against adjustment of default service rates in general, except for extraordinary circumstances and pursuant to the Act 213 adjustment clause:

The default service providers’ projected and actual incurred costs for providing service may not be subject to Commission review and reconciliation except in extraordinary circumstances, or as provided in §54.187(a)(3) [the provision for Act 213 costs].¹

As a matter of good policy and faithfulness to the statutory requirement that EDC’s recover **fully** default service supply costs, (§2807(e)(3)), the Commission should permit quarterly adjustments of the Generation Supply Charge, if necessary, and an annual twelve month reconciliation of the Generation Supply Charge.

Legally, the lack of a reconciliation process for default service supply costs is not consistent with the mandate to provide for full recovery of costs. The default service supply cost must be reasonable, but a reasonable amount of cost recovery is not what is specified by the

statute – full recovery is required. Adjusting the Generation Supply Charge for changes in numbers of customers or costs only where the reliable provision of default service is prejudiced, as contemplated by Section 54.187(g), simply is not the full recovery of costs mandated by Section 2807(e)(3).

The availability of quarterly reconciliations and an end of year adjustment would keep the Generation Supply Charge in sync with the prevailing market price and sales volumes as the EDC moved through the procurement year, and minimize the level of rate changes from one twelve month procurement period to the next.² An end of year reconciliation whose results should be spread over the next twelve month period would minimize the impact of the reconciliation process on current rates by spreading the adjustment over a substantial period. The combination of quarterly Generation Supply Charge reconciliations, when necessary, and a final twelve month reconciliation satisfies the legal standard for full recovery of default service costs. From a policy standpoint, a reconciliation process provides the important benefit of maintaining the financial integrity of the EDC. A reconcilable adjustment mechanism for the Generation Supply Charge also impacts the bidding process in a way that produces lower bid prices. This is due to the fact that if the EDC does not have some form of reconciliation process available to keep default service supply expenses and revenues in parity, it must shift this risk to the supplier who will increase its bid to reflect its absorption of the risk. Reconciliation equals lower bid proposals.³

The proposed regulations also specify two scenarios where the Generation Supply Charge may be adjusted outside of routine exercises of the competitive procurement process. Where the

¹ Proposed §54.187(h).

² Quarterly adjustments of the Generation Supply Charge would not be required. However their availability would permit a rate adjustment to occur when costs incurred warrant a rate change.

³ The Companies concur in the Commission's statement that generation procurement processes must be fair, transparent and non-discriminatory; the same view held by the Federal Energy Regulatory Commission. *Boston Edison Company Re Edgar Electric Energy Company*, 55 F.E.R.C. ¶ 61,382 (1991).

default service provider must acquire electric generation supply before completion of the competitive procurement process, the EDC is permitted to recover “the prevailing market price” of electricity in the Regional Transmission Organization’s/Independent System Operator’s (RTO/ISO) energy market where service is provided. §54.186(g).⁴ A second potential Generation Supply rate adjustment scenario is where a generation supplier fails to deliver supply and the EDC must obtain replacement supply before the “replacement procurement process” can be completed. §54.187(i).

In both of these circumstances, where an adjustment to the Generation Supply Charge can be implemented, the EDC is authorized to obtain power at the prevailing market price so that default service can be provided. The regulations clearly do not give EDC’s the right to automatically reconcile the Generation Supply Charges, even in these two latter scenarios – where the competitive procurement process is not completed before supply must be purchased and where a supplier defaults. A one-time rate “adjustment” seems to be contemplated. However, if the EDC’s are permitted quarterly and annual reconciliation of generation supply costs, these provisions for Generation Supply Charge adjustments are not necessary. If the Commission does not provide for reconciliation of the Generation Supply Charge, then the regulations should be clarified to confirm that Generation Supply Charge adjustments due to procurement delay or supplier failure are exceptions to the §54.187(h) ban on reconciling the Generation Supply Charge.

In summary, the Companies recommend that the regulation describing the Generation Supply Charge be amended to permit quarterly reconciliation of the charge, if necessary, and an annual twelve month reconciliation process. To the extent a Commission review of the reconciliations is necessary, it should focus on the twelve month reconciliation that addresses the

⁴ The regulations envision this being necessary where the competitive procurement process is not initially successful

entire period. Minimal, if any, Commission review should be necessary because under the regulations the Commission will have previously approved the EDC's implementation plan and the actual supply procurement based on the plan. A Generation Supply Charge reconciliation mechanism makes it unnecessary for the Commission to provide, as it has in §54.187(g), for a rate adjustment mechanism that is only available under the limited circumstances where significant changes in the number of customers or costs materially prejudice the reliable provision of default service. Furthermore, with a reconciliation process, the adjustments to the supply charge contemplated under §54.186(g) (when the procurement process is not initially successful) and under §54.187(i) (when a supplier fails to deliver) need not be specified and may be eliminated.

In the alternative, the regulations should clarify that the rate adjustments permitted for procurement delays and supplier defaults are not barred by §54.187(h)'s prohibition of reconciliation of default service costs. Thus proposed §§54.186(g), §54.187(g) and §54.187(i) can be amended to delete specific authorization to adjust the Generation Supply Charge if provision is made for a general Generation Supply Charge reconciliation mechanism. Appendix A contains proposed language amending the regulations in this manner. Please note that the proposed amendment to § 54.187(g) in Appendix A is not necessary if the regulations include authorization to reconcile the Generation Supply Charge.

and must be repeated. §54.186(g).

III. Good policy, including the avoidance of customer confusion, dictates that the Customer Charge should remain bundled with distribution rates and the risk adder included in the Generation Supply Charge.

The proposed regulations prudently confirm that absent Commission action, the EDC should remain the default service provider after the conclusion of the restructuring transition period. The Commission properly recognizes that the current market environment is not ready for a “retail [Provider of Last Resort] POLR model.” Order at 9.

Similar prudence also argues for the Commission to refrain from requiring separate cost of service studies and the breakout of a new customer charge for default service billing, collections, customer service, meter reading and uncollectible debt. These functions are not easily allocated between supply services and transmission and distribution services. In fact, given the EDC’s role in distribution service, it is implausible to assume that these functions would ever completely leave the EDC under any retail POLR model.

Rather than engage in a costly periodic rate proceeding to separate customer charges relating to default service and customer charges relating to distribution service, these costs should remain in the distribution rate which is paid by default service and shopping customers. The new risk component adder in the proposed regulations for EDCs providing default service could be made a part of the Generation Supply Charge to ensure complete recovery of all costs listed in the Commission’s proposed Customer Charge.

In consideration of the expense to EDCs and the Commission to allocate customer costs in the manner contemplated by the proposed separate Customer Charge, and the indisputable ongoing role of the EDC in customer service for distribution service as well as supply, the costs recovered by the proposed Customer Charge should remain part of the distribution rate and the separate Customer Charge should be eliminated. This simplification of rates would also serve

the customers' interests by reducing what would otherwise be a confusing array of three new rates. Appendix A to these comments details the amendments to the proposed regulations necessary to implement this recommendation.

IV. Conclusion

The FE Operating Companies respectfully request that the Commission adopt the foregoing modifications of the proposed default service regulations.

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Respectfully submitted,

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Appendix A

§54.187. Default service rates and the recovery or reasonable costs.

(a) The costs incurred for providing default service shall be recovered through the following mechanisms or charges:

(1) Generation supply charge – the generation supply charge [is a non-reconcilable charge that] includes all reasonable costs associated with the acquisition of generation supply, exclusive of the costs of generation supply recovered through §54.187(a)(3), to meet default service demand. The charge may be reconciled and adjusted on a quarterly basis, if necessary, and actual generation supply costs and revenues must be reconciled every twelve months. The twelve month reconciliation adjustment to the generation supply charge is subject to Commission review if the Commission, by order, determines review is appropriate.

The associated costs with this charge include:

- (i) The prevailing market price energy.
- (ii) The prevailing market price of RTO or ISO capacity or any similar obligation.
- (iii) FERC approved ancillary services and transmission charges.
- (iv) Required RTO or ISO charges.
- (v) A reasonable return or risk component for the default service provider.
- (vi) Applicable taxes
- (vii) Other reasonable, identifiable generation supply acquisition

costs.

[(2) Customer charge – The customer charge is a non-reconcilable, fixed charge, set on a per customer class basis, that includes all identifiable, reasonable costs associated with providing default service to an average member of that class, exclusive of generation supply costs and costs recovered through §54.187(a)(3). The associated costs with this charge include:

- (i) Default service related costs for customer billing, collections, customer service, meter reading, and uncollectible debt.
- (ii) A reasonable return or risk component for the default service provider.
- (iii) Applicable taxes.
- (iv) Other reasonable and identifiable administrative or regulatory expenses.]

[(3)](2) A default service provider shall use an automatic energy adjustment clause, consistent with 66 Pa. C.S. §1307 to recover reasonable costs incurred through compliance with the Alternative Energy Portfolio Standards Act No. 213 of 2004.

(3) The costs associated with providing default service, exclusive of generation supply costs and costs recovered through §54.187(a)(2), shall be recovered by the EDC acting as a default service provider through its Commission approved distribution rates. These costs include, but are not limited to, default service related costs for customer billing, collections, customer service, meter reading, uncollectible debt, applicable taxes, and other reasonable and identifiable

administrative or regulatory expenses. [recovered through the preceding charges and mechanisms shall not be recovered by an EDC acting as a default service provider through its Commission approved distribution rates.]

* * *

(g) Adjustments to the Generation Supply Charge may be made consistent with the provisions of §54.186(g) and §54.187(h). [The default service implementation plan may include mechanisms that allow default service providers to adjust their prices during the term of service to recover reasonable, incremental costs of significant changes in the number of default service customers or reasonable, incremental costs of other events that would materially prejudice the reliable provision of default service and full recovery or reasonable costs.]

[(h) The default service provider's projected and actual incurred costs for providing service may not be subject to Commission review and reconciliation except in extraordinary circumstances, or as provided in § 54.187(a)(3).]

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