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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

April 26, 2005

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COPY

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

To the Commission:

Pursuant to the announcement of proposed rulemaking in the February 26, 2005 Pennsylvania Bulletin (35 Pa.B. 9), the Allegheny Conference on Community Development hereby submits its comments to the Pennsylvania Public Utility Commission ("Commission") regarding the Commission's proposed definitions of the obligation of electric distribution companies to serve retail customers at the conclusion of their respective transition periods.

The Allegheny Conference on Community Development and Affiliates is the private sector leadership organization focused on improving economic growth and the quality of life in the 10-county southwestern Pennsylvania region.

The availability, cost, reliability, and predictability of electric service is an important component of a region's business climate for many types of businesses. It is particularly important for many large manufacturing businesses, such as those in the metals, chemicals, and other specialty materials industries, where electricity is a major cost of production. Firms in these industries provide over 40,000 jobs directly in southwestern Pennsylvania, and tens of thousands more jobs in supplier and service firms that are dependent on the continued competitiveness of these businesses.

Due to the recent changes in power rates and terms, the cost of electric power in Allegheny and Beaver Counties has become a competitive disadvantage for large commercial and industrial users, particularly in comparison to neighboring states. Based on national data and reports from individual businesses, industrial customers in Allegheny and Beaver Counties are facing electricity prices that are 50%-100% more than what is obtainable by similar businesses in nearby states such as Kentucky, Ohio, and West Virginia. In addition, the Commission's decision to limit the options available to large customers after June 1, 2007 has had the effect of making electric service in these counties even less competitive. Similar problems are likely to occur in other parts of the state over the next several years as more utilities end their transitional periods. If competitive disadvantages in Pennsylvania cause large commercial and industrial customers to scale back or shut down operations in Pennsylvania, it could cause a dramatic negative impact on all citizens in the Commonwealth, not only in terms of higher costs of electricity (due to lower demand), but loss of jobs and revenues.

The goal of the Electric Competition Act of 1996 was to make Pennsylvania's electric service more competitive for its customers. This is a desirable goal, and one that the Allegheny Conference supports. However, success in implementing the law should not be measured by whether a particular *process for pricing* is in place, but rather whether *service is competitive* for each class of customers in terms of the availability, cost, reliability, and predictability of electric power. Consequently, the Commission should attempt to establish a regulatory structure which maximizes the ability for customers to obtain electricity under terms that are most competitive for them. For example, competitive bidding is a means to an end, not an end in itself, and service providers should have the flexibility to pursue other means of obtaining power on behalf of specific customers if they can demonstrate that these alternative means will result in electric service options that are more desirable for those customers without negatively impacting other customers. Similarly, if fixed price service options are desired by major customers, service providers should not be precluded from offering them by the Commission.

In addition, the Commission must recognize that Pennsylvania's competitiveness is determined not only by the regulatory structure which exists within the Commonwealth, but by the actions of neighboring states and by the federal government. Each year, businesses make decisions as to where to expand or contract their operations or to locate new facilities, and the types of power contracts they can obtain can be an important factor – sometimes a critical factor – in their decision-making. Therefore, the Commission must strive to enable service providers to offer electricity under service and rate packages that are competitive with other states and that are predictable for major business customers. Although the Commission has looked to states to its east (New Jersey and Maryland) as comparisons, it must also look to states to its west, such as Kentucky, Ohio, and West Virginia, as well. In particular, the Commission's refusal to allow default service providers to offer fixed-price, multi-year contracts creates a competitive disadvantage for Pennsylvania relative to other states.

The Commission's regulations guiding the provision of default service need to support a system that provides for the best interest of all customers. In order to do so, we urge that the regulations provide as much flexibility as possible to enable utilities to offer

the most competitive and attractive electric service packages, particularly to large commercial and industrial customers, as long as these packages do not negatively impact the price or reliability of electric service for customers in other rate classes. In particular, we believe that the Commission's regulations should be modified as follows:

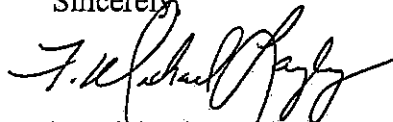
- Section 54.186 (Default Service Supply Procurement) should permit default service providers to use procurement processes other than competitive bidding for specific customers or classes of customers where they can demonstrate that the resultant service is more competitive for the customers.
- Section 54.187(d) (Default Service Rate and the Recovery of Reasonable Costs) should allow default service providers to offer a fixed rate option for large customers.

In addition, we believe that Section 54.185 (Default Service Implementation Plans and Terms of Service) should allow default service providers to provide terms of service greater than 12 months, as has been proposed by the Commission.

We believe that by giving providers the flexibility to offer these service options, Pennsylvania's competitiveness for commercial and industrial customers will be improved, and the risk of negative economic impacts on the state will be reduced or eliminated.

We urge the Commission to give priority consideration to these economic competitiveness issues before finalizing its regulations and in making future decisions about specific service implementation plans. We further urge that the Commission undertake appropriate research on these issues to guide it when making policy decisions of this nature both now and in the future. Please feel free to call on us if we can be of assistance to the Commission in addressing these issues.

Sincerely,



F. Michael Langley
Chief Executive Officer