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June 27, 2005

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
The Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
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**VIA HAND DELIVERY**

**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**


Dear Secretary McNulty:

Enclosed are the original and fifteen (15) copies of the Reply Comments of Citizens' Electric Company and Wellsboro Electric Company in the above-referenced proceeding.

Copies of the Reply Comments are being served on the parties indicated on the attached Certificate of Service. If you have any questions, please contact us at your convenience. Please date-stamp the extra copy of the Reply Comments and this letter, and return them to our messenger for our files. Thank you.

Very truly yours,

MCNEES WALLACE & NURICK LLC

By   
Pamela C. Polacek

Counsel to Citizens' Electric Company of  
Lewisburg, Inc., and Wellsboro Electric Company

PCP/nk

Enclosures

c: Shane Rooney, Esq., Office of Law Bureau (via e-mail and hand delivery)  
Ms. Cynthia Page, Communications (via e-mail and hand delivery)  
Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Certificate of Service  
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Dated this 27<sup>th</sup> day of June, 2005 in Harrisburg, Pennsylvania

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**RULEMAKING RE ELECTRIC :  
DISTRIBUTION COMPANIES' : DOCKET NO. L-00040169  
OBLIGATION TO SERVE RETAIL :  
CUSTOMERS AT THE CONCLUSION :  
OF THE TRANSITION PERIOD PURSUANT :  
TO 66 PA C.S. § 2807(e)(2) :**

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**REPLY COMMENTS OF CITIZENS' ELECTRIC COMPANY  
AND WELLSBORO ELECTRIC COMPANY**

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Dated: June 27, 2005



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## I. INTRODUCTION

On April 27, 2005, the Pennsylvania Public Utility Commission ("PUC" or "Commission") received comments regarding its proposed rulemaking for Provider of Last Resort ("POLR") Service or Default Service. The views reflected in those comments represent a variety of interests and proposals related to the Commission's role in adopting regulations to govern Default Service obligations and pricing in the post-transition period.

Wellsboro Electric Company ("Wellsboro") and Citizens' Electric Company of Lewisburg, Inc. ("Citizens"), (collectively, the "Companies") submitted Comments explaining their positions and concerns with the proposed Default Service regulations. Except for the minor modifications as explained in the Companies' Comments, Citizens' and Wellsboro support the Commission's proposed regulations as a reasonable and balanced method to address Default Service in the post-transition period. Many other parties have objected to portions of the proposed regulations that Citizens' and Wellsboro support, such as allowing each Electric Distribution Company ("EDC") to implement an individualized plan for Default Service. Because many of those issues were fully explained and debated in prior POLR-related proceedings such as the 2004 roundtable, Citizens' and Wellsboro will not respond at length to each argument raised by other commentators. Rather, the Companies concentrate these Reply Comments on the major new issues that were raised in some parties' Comments and on issues that may have unique impacts on the smaller EDCs in Pennsylvania.

## II. REPLY COMMENTS

### A. Reply To PJM Interconnection Proposal Regarding New Language For § 54.187(f) Related To Ownership Of Energy.

In its Comments, PJM proposes to add language to § 54.187(f) of the proposed regulations regarding the ownership of energy provided to, or otherwise expected to be consumed by, a retail customer. Specifically, PJM proposes to clarify that the retail customer is entitled to the benefit from any resale of unconsumed energy due to curtailment of demand by the retail customer. PJM Comments, pp. 6-7. Citizens' and Wellsboro support the general concept that retail customers participating in a Demand Side Response ("DSR") program should be entitled to some compensation for the consumption reduction that they agree to endure. As set forth in the Citizens'/Wellsboro Comments, the Companies anticipate that customers will expect an incentive to participate in such a program. See Citizens'/Wellsboro Comments, p. 24.<sup>1</sup> Citizens' and Wellsboro do not agree, however, that such incentives should be specifically linked in the regulations to the resale value or market price (i.e., locational marginal price or "LMP") of the "unconsumed" energy as implied by the PJM revisions. For some potential types of DSR programs, such as appliance control programs, a flat compensation credit may be more attractive and understandable for customers. Moreover, PJM's proposed language is not limited to demand or energy reductions under a DSR program and may be expanded to include situations where a customer terminates or reduces operations at a facility. As a result, the Companies oppose the PJM change to this section.

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<sup>1</sup> As set forth in the Companies' Comments, smaller EDCs should not be required to introduce new DSR programs.

**B. Response To OCA Regarding § 54.183(b) Addressing The Replacement Of The EDC As The Default Service Provider.**

In its Comments, the OCA suggests that the Commission remove proposed Section 54.183(b) related to the replacement of the incumbent EDC as the Default Service Provider ("DSP"). The OCA posits that this provision should be removed because the EDC "will always be required to step in as the 'last resort' when other entities fail." OCA Comments, p. 13. Although the OCA highlights an important issue, the Companies do not agree with OCA's suggestion to omit the alternative DSP from the regulations. Because the statute contemplates the possible replacement of the incumbent EDC with an alternative DSP, it is appropriate for the regulations to address this topic. As set forth in the Companies' Comments, however, the Commission must realize that if it approves an alternative DSP, then the incumbent EDC is removed fully from any obligation to procure supply for the customers in its territory. See Citizens'/Wellsboro Comments, p. 8. The final regulations should specifically confirm that the incumbent EDC will have no obligation to function as the "last resort" if an alternative DSP is authorized.

**C. Response To OSBA Proposal Regarding Requirement To Obtain Rate Schedule Specific Bids.**

Citizens' and Wellsboro are in general agreement with OSBA's Comments regarding the proposed rulemaking; however, one aspect of OSBA's proposal may not be appropriate for implementation in the Companies' service territories. Specifically, the OSBA proposes for EDCs to obtain bids for POLR supply on a rate schedule basis. OSBA Comments, p. 11. In its 2001 Request for Proposals ("RFP"), Citizens' included the option for wholesale suppliers to provide rate schedule specific bids and/or system

average bids. Bidders in Citizens' 2001 RFP showed little interest in providing rate schedule specific prices. There also was more benefit to customers in accepting the system average price. The Companies recognize, however, that rate schedule specific bidding may be attractive to wholesale suppliers participating in competitive solicitation processes for larger DSPs. As a result, to the extent the Commission is inclined to endorse the OSBA proposal, the Companies urge the Commission to recognize that rate schedule specific pricing should be optional.

**D. The Companies Oppose Various Parties' Requests To Implement A Joint State-Wide Default Service Implementation Process For All EDCs.**

In the Comments, the OSBA proposes for the Commission to require all DSPs to participate in a joint statewide default service procurement process beginning in 2011. OSBA Comments, p. 9. Various other parties also support a statewide process, including PPL Electric Utilities Corporation. See PPL Comments, pp. 15-16.

Wellsboro and Citizens' are concerned that a statewide process may detrimentally impact the Default Service prices available to retail customers in their service territories. As discussed in the Companies' Comments, the peak load in each of their service territories is below the standard tranche used in other statewide processes. See Citizens'/Wellsboro Comments, pp. 8-9. As a result, it is unclear how the Citizens' and Wellsboro loads can be included in the bidding. In addition, because the Companies do not currently possess the technical resources to perform activities such as the PJM scheduling and reconciliation process, those functions have been included in the "product" that participants in the Citizens' and Wellsboro wholesale procurement processes must provide. Wholesale bidders in a statewide process may not be willing to

perform the PJM coordination activities for the Companies. Citizens' and Wellsboro recognize, however, that further analysis may demonstrate that customers in their service territories may benefit from use of a statewide process. As a result, if the Commission pursues a statewide procurement process involving all DSPs, the Companies request for the Commission to include flexibility in the process to accommodate further studies by smaller EDCs/DSPs regarding whether and how they will participate.

**E. Citizens' And Wellsboro Oppose The Dominion Retail Proposal To Require EDCs To Include Customer Switching Thresholds and Penalties In Implementation Plans.**

In its Comments, Dominion Retail proposes for the Commission to provide "incentives" to EDCs to promote customer participation in the competitive market. Dominion Retail Comments, pp. 8-10. As outlined by Dominion Retail, the DSP's implementation plan must include minimum shopping targets for customer classes and strategies such as auctions or allocation of customers to EGSs to meet those targets. If the DSP does not meet the threshold, then it will be removed from the DSP function.

Citizens' and Wellsboro oppose this proposal. First, as set forth in the Companies' Comments, approving an alternative DSP for the territory would also require releasing Citizens' or Wellsboro from all future obligations to provide DSP service. See Citizens'/Wellsboro Comments, p. 8. Small EDCs cannot reasonably be expected to move into and out of the DSP role based on the attainment or non-attainment of arbitrary customer switching thresholds. Second, the potential replacement of Citizens' or Wellsboro by an alternative DSP may unnecessarily complicate wholesale contracting arrangements. Wholesale suppliers bidding in the Companies' RFPs will include a risk premium in the bids to reflect any possibility that the Commission could withdraw the

DSP role from Citizens' or Wellsboro during a wholesale contract term. Other complex contractual mechanisms also may be required to reflect the possible revocation of the DSP role. Third, no evidence exists that any of the Pennsylvania EDCs have been or will be "intransigent" to warrant adoption of such an extreme proposal. The "incentives" advocated by Dominion Retail are better categorized as "penalties." Although Citizens' and Wellsboro have been operating in the post-transition environment for years, to the Companies' knowledge there has never been a complaint filed with the PUC that their actions are impeding competitive alternatives. For these reasons, the Commission should reject the Dominion Retail proposal.

**F. Direct Energy's Proposal To Bid-Out Retail Default Service Creates Unreasonable And Unnecessary Risk For Smaller EDCs And Should Be Rejected.**

Direct Energy proposes for the Commission to adopt a completely new model for post-transition period Default Service that it terms a "retail default service bid out." Direct Energy Comments, pp. 4-9. Based on Direct Energy's explanation, every two years the Companies would solicit bids from competitive DSPs to provide the generation supply for Default Service customers and to also provide billing, customer care and other services. Citizens' and Wellsboro would continue to meter the service and be responsible for physically terminating any customer's service. The EDC would also be required to provide "retail back-up service for short-term energy replacement." *Id.* at 7. The alternative DSP would not be required to obtain a certificate of public convenience or otherwise act as a public utility.

Citizens' and Wellsboro oppose this concept for several reasons. First, as previously discussed, it is unreasonable to require the EDC to move into and out of a

generation supply role related to its Default Service customers. Direct Energy's plan would require the EDC do so when it is required to provide "retail back-up service." Second, Direct Energy or any other alternative DSP should not provide billing and customer care functions related to distribution service. Most of Wellsboro and Citizens' 16 and 17 employees, respectively, perform a variety of roles in customer care functions or billing. The customer care functions are integrated with the other functions performed by the employees. The Companies will not reduce their workforces to reflect the elimination of the customer care and billing functions; the customers will continue to pay for these employees through distribution rates while they also pay the DSP for its new employees and systems to perform billing and customer care. In addition, Citizens' and Wellsboro respectfully question whether the customers in their small, local service territories would prefer to deal with a new alternative DSP every two years rather than having customer care functions performed by the local EDC.<sup>2</sup>

Third, due to the commitment that the alternative DSP will undertake to provide service to customers, the Commission must require the alternative entity to obtain a certificate of public convenience and to agree to the full set of requirements for public utilities under the Public Utility Code. The DSP is providing an essential service for citizens of this Commonwealth. An entity that is providing an essential utility service should be fully regulated and subject to the Commission's jurisdiction.

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<sup>2</sup> For example, some customers of Citizens' and Wellsboro still pay their bills in person at the office.



For the foregoing reasons, the Direct Energy proposal to bid out retail default service is unreasonable and unworkable. The Commission should reject the Direct Energy proposal.<sup>3</sup>

**G. Small EDCs May Be Uniquely Impacted By Adoption Of The Morgan Stanley Or Constellation Bilateral Credit Proposals.**

Constellation and Morgan Stanley propose for the Commission's regulations to include bilateral credit for both the wholesale suppliers and the EDC. Morgan Stanley Comments, pp. 5-7; Constellation Comments, pp. 5-6. As the Commission is aware, Citizens' and Wellsboro previously have commented to the Commission during the 2004 roundtable and their POLR filings regarding the changing credit requirements in competitive wholesale energy procurement. In their initial post-transition period procurement processes, the Companies encountered a new level of credit review and credit requirements from wholesale suppliers due to some perceived risk. It was not clear whether the perceived risk related to concerns that the Companies would not pay the wholesale invoices or to concerns that the PUC would not permit Citizens' and Wellsboro to charge retail rates sufficient to recover the costs under the wholesale agreement. Both Companies were able to negotiate reasonable credit provisions for their current contracts. The credit arrangements for smaller DSPs may be different, however, from credit arrangements desired by larger DSPs. Citizens' and Wellsboro urge the Commission to be judicious in its handling of this issue and to include flexibility in any statements to allow appropriate credit requirements for the individual DSPs to be discussed and approved in the implementation plans.

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<sup>3</sup> Although not specified in the text of the Comments, it appears that Direct Energy may be willing to exempt EDCs with fewer than 100,000 customers from the process. See Direct Energy Comments, Appendix A, Section 3(a)(1).

### III. CONCLUSION

Citizens' and Wellsboro appreciate this opportunity to participate in the rulemaking process. The Companies' unique experiences and situations demonstrate that the structure of post-transition period POLR service should not be viewed as a "one size fits all" issue. The Commission's proposed regulations recognize the diversity of EDCs in Pennsylvania. With the minor modifications explained in the Companies' Comments (as further supported by these Reply Comments), the proposed regulations constitute a fair, balanced and appropriate implementation of Section 2807(e)(3), 66 Pa.C.S. §2807(e)(3).

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