

STEVENS & LEE
LAWYERS & CONSULTANTS

111 North 6th Street
P.O. Box 679
Reading, PA 19603-0679
(610) 478-2000 Fax (610) 376-5610
www.stevenslee.com

Direct Dial: (610) 478-2265
Email: lre@stevenslee.com
Direct Fax: (610) 988-0855

June 3, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Investigation of Pennsylvania's Retail Electricity Market
Docket No. I-2011-2237952

Dear Secretary Chiavetta:

Enclosed for filing on behalf of Washington Gas Energy Services, Inc. is a copy of its Comments in the above-captioned docket, which were filed electronically through the Pennsylvania Public Utility Commission's e-File system. In accordance with the Commission's Order entered April 29, 2011, an electronic copy of the Comments has been submitted to the Office of Competitive Market Oversight's email account at ra-OCMO@state.pa.us.

If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours,

STEVENS & LEE



Linda R. Evers, Esquire
PA Attorney ID No. 81428

LRE:lmr
Enclosure

cc: Office of Competitive Market Oversight (via email)

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

A major factor encouraging the entry of competitive suppliers into new markets, particularly residential and small commercial markets, is the structure of the utilities' default services. The fundamental principle that should be employed in default service is the principle that price should reflect prevailing market prices to businesses and consumers. Utilities should be able to recover their supply and associated costs in a timely manner without distorting the market price signal. The quarterly and monthly Price to Compare (PTC) adjustments provide this. So far, in the one and one-half years since WGES has been active in Pennsylvania the default service design has not adversely affected the rise of retail competition. As supply markets have been in a downward or flat trajectory since the recession of 2008 started, the blended default service prices have provided suppliers with a window of opportunity to make competitive offers to customers. If the market trajectory or trend reverses, the default service market design could become a barrier to competition as the blended default service prices will reflect past lower prices while market prices are rising. Not only will this development send the wrong market signal to customers, but retail suppliers will be forced to leave the market as no competitive supplier can compete with a regulated default service that has an open market position backstopped by regulated cost recovery. This problem can be resolved by eliminating long-term contracts from default service supply. Default service rates should reflect current market conditions. Long term power supply distorts current market conditions.

Another flawed market design feature is the continuation of the electric utility as the default service provider. Keeping the utility as the default service provider perpetuates the false impression that suppliers are competing against the utility's service instead of competing against other suppliers to provide the best and lowest price service. There are many ways that a non-utility default service provider can be selected. For instance, by an annual bidding and selection

process such as the method utilized by Texas. Customer education is essential to the success of electric choice programs and the continued presence of the utility as a merchant is an on-going source of confusion to customers and a barrier to competition

Finally, the business rules that apply to competitive supply markets are important design features of a choice program. These rules govern access to pre-enrollment customer information and usage, enrollment and drop procedures, error correction procedures to correct inevitable enrollment errors, fair and effective consumer protection rules that are reinforced and supplemented by consumer protection statutes, and customer solicitation, advertising and contracting rules for hard copy, internet and telephone contracts. In this regard WGES does not view any of the business rules as erecting barriers to competition, but as retail supply markets evolve no doubt issues will surface that require an adjustment to the rules.

II. Comments Addressing Specific Commission Questions

For ease of reading and response, WGES has provided one response to Questions 2-8 as a group and Questions 9 -10 as a group. Where questions are not listed, WGES takes no position at this time.

2. Does the existing retail market design in Pennsylvania present barriers that prevent customers from obtaining and suppliers from offering the benefits of a fully workable and competitive retail market? To the extent barriers exist do they vary by customer class?

3. What are the economic and managerial costs associated with electric distribution companies (EDCs) fulfilling the default service role? Are the EDCs accurately passing those costs along to default service customers? Do default service rates include any elements that are not cost-based? Is an examination of distribution rates needed to ensure proper cost allocation? Are there barriers to competition as a result of having EDCs provide default service?

4. Are there unintended consequences associated with EDCs providing default service, and related products, such as time-of-use rates?

5. Should default service continue in its current form? Does default service impede competition or otherwise prevent customers from choosing electricity products and services tailored to their individual needs? Does default service provide an advantage to the incumbent EDC and/or its generation affiliate(s)?

6. Can/should the default service role be fulfilled by an entity, or group of entities, other than the EDC? If the default service role should be filled by an entity other than an EDC, what mechanisms could be employed to transition the default service role away from the EDC and onto competitive electric generation suppliers (EGSs)? Are different approaches appropriate for different customer classes? What criteria should be used to ensure that EGSs are qualified to assume the default service role and maintain reliable service?

7. How can Pennsylvania's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electricity market? Are there additional market design changes that should be implemented to eliminate the status quo bias benefit for default service?

8. What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?

Response: While Pennsylvania has a growing competitive market, WGES believes the following should occur to further enhance competitive market conditions:

- A. Rates: 1) To the extent they are not, all generation related costs should be unbundled from the EDC's distribution rates. The distribution rates of shopping customers should not include costs associated with default service. This eliminates the unintended result of shopping customers subsidizing default service customers. 2) Default service rates should reflect current market conditions for all customer classes including residential customers. Blended long term contracts prevent this and thus are a barrier to a full robust competitive market.
- B. Default Service: Another barrier to competition is the continued reliance on the incumbent utility as the default service provider. Texas has demonstrated that an entity other than the incumbent utility can provide default service. Often customers do not shop simply because they are familiar with the incumbent EDC and will not take the time to investigate options. Despite extensive consumer education, the shopping saturation point for residential customers will remain low because this class, primarily due to inaccurate customer service and reliability concerns, simply will not shop.
- C. Purchase of Receivables (POR): Although many EDCs have agreed to POR, WGES believes it should be a requirement. This will spur residential and commercial suppliers seeking to serve residential and commercial customers. The

POR program should allow suppliers to offer budget billing, in a manner that is identical to current utility budget billing, to its customers.

- D. Online Bill Access: The default service rules should require EDCs to provide suppliers with the ability to view their customers' bills online. This promotes clarity and avoids unnecessary confusion by allowing a supplier's customer service representatives to see an image of the exact same bill as the customer has in their hands.
- E. Historical Usage: EDCs currently have access to the historical usage data of customers. Competitive suppliers should have access as well. With access to historical usage data for all customers, suppliers can create their own baseline usage profiles and develop competitively priced products and services aimed at achieving demand response and energy efficiency services. Historical usage information should be included on customer lists made available to all licensed suppliers, so long as customers can opt-out of having their usage included on a list.

9. What changes, to Regulations or otherwise, can the Commission implement on its own under the existing default service paradigm to improve the current state of competition in Pennsylvania?

10. What legislative changes, including changes to the current default service model, should be made that would better support a fully workable and competitive retail market?

Response: The Commission and/or legislature should not require the EDCs to be the default service provider. Qualified competitive suppliers can and should be allowed to offer default service to consumers and businesses. To the extent this suggestion is not implemented, WGES believes the current default service rules requiring long term default service contracts should be revised. Laddered supply contracts and rolling blended default service prices distort market conditions and impede retail competition. Default service should be revised to adopt bidding procedures that award supply contracts for shorter terms and that produce default service prices that are more closely aligned with prevailing market conditions.

11. Are there, or could there be, potential barriers being created by the implementation of the EDC Smart Meter plans?

Response: WGES supports the implementation of EDC Smart Meter Plans that will facilitate customers gaining access to many alternative products and services the competitive market can provide. Access to data capable of being transmitted in real-time to the market will enable competitive suppliers to offer dynamic pricing options and innovative demand response and energy efficiency services based on real-time customer data.

Smart Meters should utilize an open architecture and be interoperable with current and future smart grid products. Suppliers will need real-time non-discriminatory access to customers' meter data in order to develop demand response programs and other services. Additionally the meters should meet the following requirements:

- meters that can monitor voltage
- meters with remote programming capability
- meters that are capable of two-way communications
- meters with remote disconnection and reconnection
- meters with time-stamp capability
- meters with a minimum data storage capability of 14 days
- meters that can communicate outages and restorations
- meters that are bi-directional and capable of net metering,
- meters that deliver usage data at least hourly

The foregoing open architecture rules and minimum standards will facilitate the development of competitive demand response and energy efficiency services and enable consumers and businesses to contract for such services and reduce their energy usage.

III. Conclusion

WGES thanks the Commission for the opportunity to present these comments and would be pleased to address any questions the Commission may have.

Respectfully Submitted,

Harry A. Warren, Jr.
President
Washington Gas Energy Services, Inc.
13865 Sunrise Valley Drive
Suite 200
Herndon, VA 20171-4661
703-793-7500