

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Investigation of Pennsylvania’s Retail
Electricity Market**

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Docket No. I-2011-2237952

**COMMENTS OF
CONSTELLATION NEWENERGY, INC. AND
CONSTELLATION ENERGY COMMODITITES GROUP, INC.**

I. INTRODUCTION

On April 28, 2011, Chairman Robert F. Powelson and Vice Chairman John F. Coleman, Jr., respectively the Chairman and Vice Chairman of the Pennsylvania Public Utility Commission (“Commission”), issued a *Joint Motion*¹ in which they announced that the Commission is conducting a statewide investigation “with the goal of making recommendations for improvements to ensure a properly functioning and workable competitive retail electricity market exists in the state” (“Investigation”).²

According to the Joint Motion, the Commission’s Investigation will be separated into two phases, with the first phase designed to evaluate the status of the existing retail market and investigate what modifications may be required in order to permit customers to best utilize the benefits of competition.³ At the conclusion of this initial phase, the Commission will commence the second phase to inspect and address how to best resolve the issues introduced

¹ *Investigation of Pennsylvania’s Retail Electricity Market, Joint Motion of Chairman Robert F. Powelson and Vice Chairman John F. Colman, Jr.*, issued on April 28, 2011 (“Joint Motion”)

² *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 11 02(a)(3) of the Public Utility Code approving a change of control of West Penn Power Company and Trans-Allegheny Interstate Line Company*, Docket Nos. A-20 1 0-2176520 and A-20 I 0-2176732, Opinion and Order at 46.

³ Joint Motion at p.1.

in the first phase and execute the prudent modifications identified, based upon the Commission's review of comments received.⁴ In accordance with the Commission's Joint Motion, Constellation NewEnergy, Inc. ("CNE") and Constellation Energy Commodities Group, Inc. ("CCG") (collectively, "Constellation") appreciate the opportunity to submit these Initial Comments.

In the event that the Commission or its Staff prepares a service list for this proceeding or otherwise requires additional information regarding the positions presented herein, Constellation identifies the following individuals:

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II. **BACKGROUND ON CONSTELLATION**

CCG and CNE are indirect, wholly-owned subsidiaries of Constellation Energy Group, Inc., a FORTUNE 500 North American energy company with several merchant subsidiaries in addition to CCG and CNE. CCG and CNE have been granted market-based rate authority by the Federal Energy Regulatory Commission ("FERC") and are buyers and sellers of wholesale electricity and capacity.

CNE is an electric generation supplier ("EGS"), licensed by the Commission to serve Residential, Commercial and Industrial customers in all utility territories in the Commonwealth.

⁴ *Id.*

CNE is the largest provider of competitive retail electric supply to Commercial, Industrial and Governmental customers throughout the United States, including Pennsylvania. In addition, CNE has a growing presence serving residential customers in Illinois, the District of Columbia, Maryland and New Jersey, and intends to begin marketing to residential customers in the Commonwealth this year. CCG, meanwhile, is one of the largest suppliers of wholesale electric power to utilities, municipalities and cooperatives throughout the United States, including the provision of electric power and energy to the Commonwealth's utilities under current default service plans and programs. This combination of CNE's and CCG's broad and thorough experience and interests affords Constellation unique and valuable perspectives on the future of Pennsylvania's retail electricity market, including both the Default Service structures and the retail market enhancements that may be considered by the Commission.

III. CONSTELLATION'S COMMENTS

Constellation commends the Commission for initiating this investigation as it once again reaffirms the Commonwealth's commitment to promoting competitive markets. As one of the largest suppliers of retail and wholesale electric power in the Commonwealth, the Commission's Investigation presents important issues which affect Constellation's business interests in Pennsylvania. Constellation has had an active and integral presence in the Commission's prior proceedings to develop retail electric markets and general default service policies including, but not limited to, proceedings to revise and approve utilities' individual default service plans, proceedings to address retail market enhancements, and various other matters. The Initial Comments presented herein stem directly from Constellation's practical

day-to-day experience in jurisdictions across the nation in which retail and wholesale customers are actively considering and pursuing competitive shopping opportunities with suppliers. Constellation's Comments are designed to set forth a series of common principles or criteria that should inform the policy direction the Commission determines in this proceeding. Additionally, Constellation provides a variety of suggested enhancements to the retail market that apply regardless of whether the Commission directs any changes to the current default service structure or the role of electric distribution companies ("EDCs") in providing default service.

Competitive retail and wholesale markets continue to represent the best way to ensure that Pennsylvania consumers receive reliable electric power and have access to innovative products and services from a broad pool of suppliers that may best meet each customer's individual needs, while simultaneously assuring the affordability and reliability of supply as competitive markets continue to grow.

The relationship *between* the wholesale and retail markets is particularly important to keep in mind as the Commission considers competitive structures in the Commonwealth. Pennsylvania's reliance to date on competitive wholesale markets (e.g., in the PJM Interconnection, L.L.C. ("PJM")) has assured that its consumers have not only received competitive pricing actively administered and monitored by PJM, FERC and market participants, but that customers have received adequate and reliable service. PJM is responsible for ensuring the reliable operation of the electricity system in a multi-state region by managing transmission, generation and demand response assets. The state's default structures to date have done well by addressing reliability and any actions that affect reliability through this

regional resource, as PJM assures the most effective and cost-efficient solutions for reliability, spreading the responsibility across the broader region. For these reasons, the Commonwealth must ensure that neither the wholesale nor the retail market is compromised in pursuit of promoting the other.

Constellation has extensive experience entering into and participating in competitive retail and wholesale markets throughout the country. Based on this experience Constellation has found that, to a large degree, the adoption of certain tariff and business practices will lead to more robust development of the competitive retail market which will inure to the benefit of all consumers. It is with that backdrop that Constellation urges the Commission to take actions to eliminate barriers to the continued development of competitive retail electric markets.

In order to evaluate the status of the existing retail market and investigate what modifications may be required in order to maximize the benefits of competition, the Joint Motion requests responses on 11 Questions to which Constellation responds herein.

1. What is the present status of competition for retail electric generation for customers, by class and service territory, and for alternative suppliers?

Pennsylvania has made an extremely successful transition from capped default service rates to a more fully competitive market. With the rate caps having expired for the remainder of EDCs at the beginning of 2011, Pennsylvanians are beginning to see robust market development in a number of EDC service territories, though the results are somewhat mixed in other parts of the state. The Commonwealth now boasts over 200 licensed EGSs.

Given what still has to be recognized as the very recent move away from capped rates to market-based rates, the customer switching statistics have been robust in the PPL Electric

Utilities Corporation (“PPL Electric”) and PECO Energy Company (“PECO”) service territories; results have somewhat lagged in other service territories. In PPL Electric’s territory alone, approximately 40 percent of residential customers have moved away from the utility’s default service to an alternative supplier. That is a rather astounding number in less than 18 months, given the pace of progress seen historically in other newly opened markets. The Pennsylvania Office of Consumer Advocate maintains statistics for customer shopping across the Commonwealth, which evidence these positive results.⁵

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?

It should be recognized that, for a variety of reasons, some customers (and possibly many in certain territories) feel more comfortable buying electricity from their utility regardless of the market structure. Many have referred to this as the “status quo bias.” Nevertheless, if any barriers or consumer bias exist under the current model, they most definitely vary by customer class. Not surprisingly, commercial, industrial and governmental customers have shown a strong propensity to understand, evaluate and select competitive retail electric service from an EGS.

⁵ See <http://www.oca.state.pa.us/Industry/Electric/elecstats/ElectricStats.htm>.

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?**

In a well-functioning competitive market, all costs associated with providing default service should be identified and recovered through default service rates. It is not entirely clear what specific costs each of the EDCs are allocating or tracking as they relate to the EDCs' roles as default service providers. In fact, since the original restructuring cases, it does not appear that the Commission has had the opportunity to ensure that such costs are properly allocated to the generation, distribution and transmission functions. Such costs' data is firmly in the possession of the EDCs and the Commission and Commission Staff should require a full and complete unbundling of the EDCs' rate structures to ensure proper allocation of costs. Under such an examination, EDCs should be guaranteed full-cost recovery of all just and reasonable costs.

This examination of EDCs' rate structures should be done on some regular interval, as costs change over time. For instance, with the continued and increasing movement of customers off of default service to service with an EGS, certain costs and the need to provide certain functions may be reduced. If default service rates do not fully reflect all of the costs associated with providing generation service, it can place EGSs at a competitive disadvantage to EDCs. Furthermore, without knowing the magnitude of costs that need to be properly allocated to the generation function, and thus made avoidable for shopping customers, it is hard to determine whether and to what extent a barrier to competition exists.

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

With restructuring of the electric industry in Pennsylvania, it was extremely logical to have EDCs in the role of default service providers. This was especially the case when the decision was made to embark on a lengthy transition period before transitioning to market rates. However, if the EDCs are going to remain the default service providers, each should offer only a single product to each customer class and should not provide multiple rate options such as time-of-use (“TOU”) rates for certain classes of customers, or optional fixed-price products for the largest commercial and industrial customers.

The competitive market and EGSs are fully able to provide these varied products to consumers, and allowing (or requiring) EDCs to offer these additional products to customers can act as a barrier to competition. For example, the TOU products offered by PPL Electric, PECO and Duquesne Light Company are made available only to the utility’s default service customers.⁶ Requirements such as these create additional “default service” product options and are counterproductive to encouraging customers to receive generation supply from the competitive markets in order to exercise their ability to choose. See the *Comments of the Retail Energy Supply Association* for a more detailed discussion of some of the problems associated with these and other existing optional TOU options.

⁶ *PPL Electric Utilities Corporation Supplement No. 94 To Tariff Electric Pa. P.U.C. No. 201 Time-of-Use*, Docket Number R-2010-2201138, Order entered December 2, 2010; *Petition of PECO Energy Company for Approval of its Initial Dynamic Pricing and Customer Acceptance Plan*, Docket No. M-2009-2123944, Opinion and Order entered April 15, 2011; and, *Petition of Duquesne Light Company for Approval of a Time-of-Use Plan*, Docket No. P-2009-2149807, Order entered June 23, 2010.

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 affiliates?**

Default service has acted as a valuable safety net during this transition period into market rates and out from under rate caps. With the appropriate structures for each customer class, clear and transparent pricing, strong affiliate rules, enhanced customer education efforts, and the timely provision of necessary data and information, default service can effectively facilitate the ability of customers to choose electricity products and services that are tailored to their individual needs.

However, if the Commission decides to alter the current form of default service or directs someone other than the EDC to provide default service, Constellation recommends that the Commission adhere to the following set of ten (10) core principles:

1. **Default service shall include only essential, plain-vanilla service.** There should only be a single default service or “POLR” rate for each customer class. The actual default service or POLR product may vary by customer class (fixed-price or variable) but there should not be multiple product offerings for a particular customer class. Therefore, TOU rates, energy efficiency offerings, demand response products and optional fixed-price products for certain customer classes shall not be offered as part of the default service or POLR structure, as those products are readily available from EGSs in the competitive retail market.
2. **Existing wholesale default service supply contracts shall not be compromised or negatively affected in any way.** Great care must be taken to ensure that existing wholesale supply contracts are not compromised, put at risk or, worse yet, abrogated.
3. **A reasonable transition shall be developed.** A reasonable transition period shall be adopted to ensure adequate time to accommodate any necessary market, structural and operational reforms that are going to be put in place as a result of any changes to the current default service structure.
4. **Explicit market progress metrics shall be developed and utilized.** Explicit criteria and metrics shall be developed to evaluate the continuing development of the

competitive retail market by customer class (e.g., switching statistics, number of suppliers, types of products and services, etc.).

5. **Termination of default service procurement by the EDC shall be carefully considered.** Any policy decision to eliminate the role of the EDC as the default service provider shall be determined through a formal PUC Order that relies upon a demonstration or satisfaction of the criteria and metrics adopted pursuant to criteria #4 above.
 6. **Market structures and any transition shall continue to rely upon competitive procurements.** If the Commission decides to remove the EDC from the default service role; any alternative default service structure should rely upon a direct, transparent, and competitively procured retail supply structure.
 7. **Some form of POLR construct shall be retained.** - Even if the Commission eliminates the existing EDC default service procurement structure, there will still need to be a system developed for providing Provider of Last Resort service.
 8. **The needs of Universal Service customers shall be explicitly considered.** All customers shall be eligible for retail supply contracts with an EGS, including low income customers. In the event that the Commission terminates the current EDC default service procurement structure, any new structure should explicitly define provisions for supplying low income and senior consumers.
 9. **New consumer protections may need to be developed.** Any additional consumer protection requirements or other rules shall be developed and implemented in conjunction with the termination of the EDC's role in default service procurement.
 10. **EGSs shall not be required to bear the burden of others' uneconomic investments.** No provisions shall be made for requiring EGSs to support the recovery of uneconomic investments, subsidized generation projects, or similar investments.
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?**

See Constellation's response to Question 5 above.

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?**

Regardless of whether the Commission decides to fundamentally alter the current default service function, the operating rules – allowing EGSs that seek to enter Pennsylvania’s market and offer retail generation service – must be non-discriminatory and must not unduly favor the incumbent EDC. Otherwise, the efficiencies, innovations and potential cost savings of a fully competitive retail market will not be realized. Similarly, investments in wholesale market infrastructure may be negatively affected by discriminatory interventions in the market. We believe there are certain standards, rules and operational protocols which will make the retail market viable for those EGSs that wish to offer retail generation service to Commonwealth customers, while upholding robust wholesale markets to support such retail development.

Data and Information

A constant struggle with providing supply to customers is the acquisition of data. As the Commission has recognized, “it is essential that alternative suppliers of retail generation service have the non-discriminatory access to customer data and utility facilities necessary to fulfill the legislative goal of a competitive retail market for generation in Pennsylvania.”⁷ While EDCs are always going to be the provider of this data, regardless of the default service structure, improving on the mechanism to deliver and the timeliness of the data would enhance suppliers’ ability provide superior service to customers. Moreover, standardization of transfer processes across the state, where feasible, would provide additional benefits. For instance, if there is a

⁷ See, *Opinion and Order in re: PPL Electric Utilities Corporation Retail Markets*, Commission Docket No. M-2009-2104271 (issued Aug. 6, 2009) (“2009 PPL Electric Retail Market Order”).

website for a supplier to acquire this data at all times, it will the make the acquisition of this data both timely as well as inexpensive by allowing for automation rather than varied and inconsistent manual processes.

Additionally, communication remains a cornerstone of an effective competitive market place. If buyers and sellers cannot reach each other to make offers and acceptances, and speak in the same “language,” commerce will be impeded and, even if it can take place, additional and unnecessary costs will be incurred. Therefore, it is of utmost importance that EDCs and EGSs seeking to sell electricity to end-users exchange information in an accurate and consistent manner. In order to do this, EGSs must first have the information they need on the customer bases they wish to serve. EGSs *must* be able to have timely, reliable and precise information on EDCs' customers.

To assist in improving communications and data, the Commission should adopt a uniform system/set of data and information that EDCs are required to provide to EGSs. Such system/set should, at a minimum, include:

1. A list of customers that is refreshed and updated each quarter;
2. Web-based, electronic access to key customer usage and account data that can be accessed via a supplier website that presents data and information in a format that can be automatically scraped;
3. Data access including access to the following types of data:
 - (a) Validation, Error Detection, and Editing (“VEE”) data posted via Electronic Data Interchange (“EDI”)- post;
 - (b) 867 Historical Usage (“HU”) and Historical Interval Usage (“HIU”) data;
 - (c) 867 Monthly Usage (“MU”) and Interval Usage (“IU”) data;
 - (d) Transmission and capacity Peak Load Contributions (“PLCs”) in 867s;
 - (e) Meter read cycle information;
 - (f) Accounts requested together should come back together, unless there would be an unnecessary delay for a particular subset of accounts; and

(g) A quarterly updated sync-list should be provided to EGSs on a confidential basis showing the accounts that are enrolled with the EGS. The list would contain information such as service start date, bill method, PLC values.

The customer-specific information should include the following, at a minimum:

- Account Numbers;
- Meter Numbers;
- Names;
- Service Addresses, including Zip Codes;
- Billing Addresses, including Zip Codes;
- Email Addresses;
- Meter Read Cycle Dates;
- Meter Types;
- Interval Meter Flags;
- Rate Code Indicators;
- Load Profile Group Indicators;
- PLC Values (capacity obligations);
- 24 months of consumption data (in kWh) by billing period, including:
 - On-Peak data; and
 - Off-Peak data;
- 24 months of demand data (in kW) by billing period;
- 24 months of interval data;
- Effective dates for current and pending rate class and/or procurement class;
- Default Service indicators (if on Default Service);
- Minimum Stay Dates (if applicable);
- Identifiers of whether customers are participating in Rate Mitigation/Deferral plans; and
- Identifiers of whether customers are participating in Pre-payment plans.

Unnecessary delays in the provision of this data and information can have an effect on EGSs' ability to contract with customers, render invoices and provide other services to consumers.

Ultimately, given the fact that pricing may change during the intervening time, a customer and/or its intended EGS may be economically harmed. If EGSs do not receive timely and accurate delivery of interval data, this not only impacts suppliers' ability to provide price quotations to customers, but also frustrates EGSs' ability to issue invoices to customers on a timely basis, which inconveniences customers and increases suppliers' costs.

Uniformity in Setting Default Service Rates

Furthermore, making sure that all default service rates are set within similar time frames, under similar pricing structures, and implementing other commonalities will help consumers better understand the market and make educated shopping choices. For customers with accounts in several utility service territories in Pennsylvania, one consistent approach or program across the state would make it easier for them to understand and make more comprehensive and coordinated purchasing decisions. Moreover, a single, uniform schedule and approach would better enable EGSs to prepare and advertise offers across the Commonwealth, rather than only in limited EDC territories.

Unbundling

In addition, it is extremely important that the Commission once again investigate whether the rate structures of EDCs are properly unbundled. The Act expressly requires that charges for generation, transmission and distribution be fully unbundled.⁸ Likewise, the default service regulations require default service rates to include the sum of all generation and transmission related default service costs.⁹ Some of these costs include administrative costs such as billing, collection, education, regulatory, litigation, tariff filings, working capital, information system and associated administrative and general expenses related to default service.¹⁰ The purpose for ensuring that all costs associated with providing default service are included in default service rates is to prevent EDCs from gaining a competitive advantage by

⁸ 66 Pa. C.S. § 2804(3); *Lloyd v. Pa. P.U.C.*, 904 A.2d at 1010, 1013-14 (Pa.Cmwlth. 2006).

⁹ *Default Service Final Rulemaking Order* at 26; 52 Pa. Code § 54.187(a).

¹⁰ 52 Pa. Code § 69.1808{ TA \s "69.1808" }.

paying for these costs through distribution revenues and, therefore, creating default service rates that do not accurately reflect market rates and, in turn, erecting barriers to competition.

Net Metering

Finally, as the number of customers in Pennsylvania installing net meter devices (solar panels, wind mills, etc.) grows, the lack of EDI standards around net meter devices causes confusion for customers, EGS and EDCs. For example, some customers with net meter devices have the capability to generate more electricity than they consume in a given bill period. Because EGSs have no way to identify accounts with net meter devices in advance, some EGSs may discover that a customer has a net meter device only after the customer has received their first bill. EDCs across the state are not identifying inflow and outflow kWhs in a consistent manner when transmitting customer usage to their EGSs via EDI.

This confusion could be cleared up by taking a few simple steps:

- a) Identify customers on utility eligible customer lists (ECLs) as having a net meter device;
- b) Identify the presence of a net meter device on 867 HU and 814 enrollment responses from EDC to supplier; and
- c) Develop a standard for EDCs to follow when transmitting inflow and outflow kWh to EGSs in 867 EDI MU transactions.

Importantly, this issue does not vary by customer class because, as technology becomes less expensive, the adoption of net meter devices by residential and small commercial customers will continue to increase. The Electronic Data Exchange Working Group (“EDEWG”) should develop EDI standards for identification of net meter devices, as well as the clear distinction between consumption and customer generated kWh. EDCs and EGSs should

participate in developing the EDEWG standard, and commit to implementing the standard in a timely manner.

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

Consumer education remains a critical pillar of a vibrant competitive retail market for electricity in Pennsylvania. The market with the greatest number of shopping choices is of no use if no one knows that it exists. Therefore, it is necessary that the Commission, the EDCs, EGSs and others undertake a sustainable program of customer education to make sure that consumers know not only that rate caps have expired, but that choices now exist for all electric power end-users.

Such a comprehensive program should educate consumers and not market any brand of electric power. It should begin immediately so that consumers are aware of their choices for electric power and are educated as to how to contact EGSs. Bill inserts, media, advertising and the internet should all be utilized.

Finally, as discussed above, default service should not include other “optional” default service products such as TOU rates and the optional fixed price services that have been offered to large commercial customers in various EDC service territories. Likewise, EDCs should not be required to provide any additional generation services intended to achieve other public policy goals such as energy efficiency or demand response. As long as EDCs are allowed (or even required) to provide these products, EGSs will be placed at a competitive disadvantage and the full benefits of retail competition will not be realized.

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?**

There are a number of things that the Commission should implement to improve the current state of competition in Pennsylvania. First, the Commission could continue its important adoption of consumer protections, and appropriate licensing requirements for EGS and Brokers.

Second, part of what makes it easier for EGSs to compete is to understand the model against which they must compete. Providing a long-term, stable procurement schedule with regulatory certainty will allow EGSs to better position themselves against the default service supplier that procures its supply in a well known and predictable way. By understanding that the default service paradigm is stable and will remain stable for a number of years, EGS ultimately will be able to better forecast opportunities and market themselves to consumers.

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

The statistics of the number of EGSs as well as the number of customers who have elected to leave EDC service in such a relatively short period of time after transition rates have ended is evidence that the current structure is a completely workable model. Without question, however, there are many opportunities to enhance and improve upon the current default service model. For instance, one legislative area that should be addressed is that of complications created by Act 129. Act 129, while well-intentioned, has been somewhat of an impediment to a more robust development of retail competition. Act 129 has erected certain barriers to EGSs being able to more broadly offer demand response and energy efficiency

products and services. As noted earlier herein, as long as the EDCs are allowed (or even required) to provide varied and additional generation-related products – including the types of energy efficiency and demand response offerings contemplated in Act 129 – EGSs will be placed at a competitive disadvantage and the full benefits of retail competition will not be realized.

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

In the long run, Smart Meters will make consuming energy more important, visible and understandable to the average consumer. In the short run, they may create a challenge to supplying customers given the lack of decent information regarding how each individual customer consumes power. Without adequate historical data, Smart Meters in the short term may force suppliers to guess how these consumers will use power, which in the end could increase prices. After this history of consumption is better understood, however, this problem will start to dissipate. There is no logical way to make this better unless the EDCs currently have and make available to EGSs the historic usage data of many consumers to help EGSs get a better grasp of the issue. Again, there are always transitional issues everyone will have to deal with, but it will improve as EGSs are provided with nondiscriminatory access to data about actual hourly consumption by customers.

IV. CONCLUSION

Constellation appreciates this opportunity to submit its Initial Comments to the Commission. Constellation is confident that its recommendations will promote continued development of the Commonwealth's competitive retail and wholesale markets, for the

ultimate benefit of Pennsylvania's consumers. Constellation looks forward to continued discussions during Phase II of this investigation with all stakeholders regarding these and other issues pertaining to the development of the competitive electricity markets throughout the Commonwealth. Constellation is confident that the end result of this investigation will promote continued development of competition in the Commonwealth for the benefit of all consumers. If so, EGSs will be able to offer customers an ever-increasing number of service options to meet customers' needs, resources, budget requirements, environmental or sustainability initiatives and price-hedging strategies. These products will be individually customized to meet the household and business goals, risk appetites, and needs for each individual consumer.

Competitive retail and wholesale markets are the best way to ensure that consumers receive reliable electric power. Robust competition in wholesale and, in turn, retail markets keeps costs as low as possible and produces the following benefits that customers and policymakers are seeking:

- *Innovative products and services from a broad pool of suppliers that may best meet each customer's individual needs;*
- *Advancements in reliability, conservation, renewable energy development, and the ability of customers to purchase green power products;*
- *A platform to promote demand response and home and business energy efficiency and other innovations that are superior to traditional cost-of-service regulation;*
- *The ability and information to make decisions and have choices regarding their electric power needs;*
- *The confidence that those that choose not to shop will nevertheless benefit from PJM's broader competitive markets through competitively-set default service rates. Customers – even those that do not shop – must receive reliable electricity at rates that are the result of downward competitive pressure through a competitive procurement process to obtain the lowest competitive costs for electricity supply from winning bidders in a pool of qualified suppliers; and*

- *The assurance that consumers will never face future stranded costs as a consequence of monopoly investments in infrastructure.* The Commonwealth's reliance largely on *load following* full requirements contracts for wholesale default service supply bolsters this benefit.

The consistent pro-competitive policy direction from the Commission provides current and future participants in the Pennsylvania electricity market a high degree of regulatory certainty which is of critical importance to all market participants. There is a tremendous potential for new, innovative approaches to meet Pennsylvanian's electric needs. But if potential market entrants and their investors fear that the "rules will change" over and over, it becomes far too risky to invest scarce capital.

Constellation looks forward to attending the Commission's *en banc* hearings, the first of which is scheduled for June 8, 2011, and participating in the dialogue regarding the topics and issues raised throughout this Investigation.

Respectfully submitted,



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