



NRG Energy, Inc.
211 Carnegie Center
Princeton, NJ 08540

Phone: 609.524.4500
Fax: 609.524.4501

June 3, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2nd Floor)
PO Box 3265
Harrisburg, PA 17105-3265

**RE: Investigation of Pennsylvania's Retail Electricity Market
Docket No. I-2011-2237952; COMMENTS OF NRG ENERGY, INC.**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission on behalf of NRG Energy, Inc. are an original and five (5) copies of its Comments in the above-referenced proceeding.

As a courtesy, copies are being provided to the Office of Consumer Advocate, the Office of Small Business Advocate, and the Commission's Office of Competitive Market Oversight.

If you have any questions regarding this filing, please direct them to me. Please date-stamp the extra copy and return it with our messenger. Thank you for your attention to this matter.

Respectfully yours,

Christopher C. O'Hara
Assistant General Counsel-Regulatory

cc: Office of Consumer Advocate (hand delivery)
Office of Small Business Advocate (hand delivery)
ra-OCMO@state.pa.us

RECEIVED
2011 JUN -3 PM 3:58
IA PUC
SECRETARY'S BUREAU

RECEIVED

JUN - 3 2011

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMMENTS OF NRG ENERGY, INC.

NRG Energy, Inc. is one of the nation's largest, most diverse power companies with over 24,000 MW of generation and subsidiaries that provide retail electricity in various states with competitive retail electricity markets. NRG has two retail companies with a keen interest in the Pennsylvania retail market – Reliant Energy Northeast LLC ("REN") and Green Mountain Energy Company ("GME").¹

NRG appreciates the significant strides taken by the Pennsylvania Public Utility Commission ("PUC") and other key market players to foster the growth of a competitive retail electricity market in the Commonwealth. Pennsylvania is in the enviable position of being able to research models that have been instituted around the country and evaluate, consider and adopt the approaches that have worked best. In doing so, Pennsylvania can continue to develop its competitive retail electricity market and maximize the benefits to consumers with a robust, sustainable competitive electricity market.

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

¹REN received its non-residential license on October 18, 2010 and its residential license on May 19, 2011. GME has a non-residential license application pending at the Commission and approval is expected on June 9th.

Pennsylvania has recently seen significant improvement in the competitive retail electricity market primarily resulting from declining wholesale prices, as well as the implementation of certain beneficial retail policies. For example, the PUC has allowed rate caps to expire, adopted an aggressive education campaign, and implemented certain market rules (e.g., Purchase of Receivables (“POR”), the provision of customer lists, etc.), that have enabled retail competition to take root. With this solid foundation, Pennsylvania is now well-positioned to leverage the current momentum and take the steps necessary to further advance the development of the market and bring the as-yet-untapped benefits of a fully functioning competitive retail electricity market to all customers in the Commonwealth.

Retail suppliers are just beginning to offer a broader array of unique and innovative products and services – providing customers significant savings, increased renewable energy options and other value-added products and services in the Commonwealth. In order to ensure that retail competition continues to develop and thrive and that the savings and other customer benefits experienced to date are just the beginning, rather than a brief glimpse of what could have been, the Commission must evaluate and ultimately implement additional regulatory policies.

While it is true that the growth in the number of customers shopping over the past eighteen months has been significant and impressive, and that all customer classes are beginning to experience the benefits that competition can bring (to varying degrees), the vast majority of Pennsylvania’s electricity customers have yet to shop. For example,

while the majority of the industrial customer load (83%) is taking advantage of the ability to choose the suppliers and products that meet their needs, in terms of actual numbers of customers, just 60% of these customers have switched to a competitive retail supplier. Similarly, for residential and small commercial customers, shopping over the past eighteen months has been robust and an ever-increasing number of these customers are choosing new suppliers. However, statewide, the majority of these customers (80% of residential and 70% of commercial customers) have yet to exercise their ability to choose.

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?

Although there is strong reason for other states to cite Pennsylvania's model as a working design that should allow retail competition to develop, there is still a significant amount of work to be done to maximize the benefits to customers that retail competition offers. Critical barriers still exist that will dampen and/or stall the continued progress toward robust competition. Two key barriers remain: the lack of customer awareness of choice despite valiant efforts at education and a default pricing structure that will stymie the development of innovative products and services (including renewable energy offers and other value added products) that are possible with a more robust, sustainable competitive market design.

NRG appreciates the Commission's aggressive customer education efforts to date. The outreach by PUC Staff and the PA PowerSwitch website have been invaluable to consumers as they begin to learn about their choices. However, additional education is essential to ensure that customers are informed about all of their options as more suppliers enter the market and the customers need information that helps them make "apples-to-apples" comparisons regarding suppliers' products and services. Claimed savings, generation portfolio, variable or fixed price product are just some details that could be overwhelming to a customer who has never chosen a retail electric supplier before. With a required consistent nomenclature some of that burden would be ameliorated. Therefore, NRG recommends that the PUC establish a second phase of this proceeding to, among other things, explore and develop a standard "electricity facts label" to provide consumers basic product offer information. All suppliers opting to post offers on the PA PowerSwitch websites would be required to use this fact label to convey their product information to consumers.²

A second key barrier that exists is the current default pricing structure, which is based on long-term supply procurements and helps to produce a "boom-bust" market for both customers and suppliers, and limits how customers view and ultimately experience the benefits of competitive markets. A systematic comparison to a "Price-to-Compare ("PTC")" that is based on long-term supply is very restrictive. First, prices can go up or down over time. If prices decrease, the EDC with the long-term commitment will still be able to recover its costs; yet customers will be paying more than would be necessary

² Please visit the Texas Power-to-Choose website at <http://www.powertochoose.org/> for an example of a standardized Electricity Facts Label.

under a more flexible, short-term arrangement. Retail suppliers may be able to provide innovative products under these conditions but, when prices are increasing, the ability to compete and offer innovative services will be virtually impossible when compared to long-term arrangements.

Suppliers' ability to develop and offer innovative value-added products and services, including renewable energy products, would be hamstrung, with diminished attractiveness to consumers, when compared to long-term commitments – as the opportunity to couple those services with price offers cannot compare to long-term deals that only an EDC with massive load responsibilities and a cost recovery mechanism can consummate. As outlined below, this structure must change to unshackle the innovation and benefits that are possible when the electricity market is allowed to function like all other commodity markets and suppliers compete against one another rather than an administratively-determined price.

The changes in the default pricing structure that need to occur are not limited to the default service offered to residential or smaller commercial customers. The hourly price default structure in place to serve large commercial and industrial customers must also evolve to bring these customers the benefits of the competitive market that will continue to grow and develop as the market becomes more sustainable.

Reliance on a well-structured competitive market model, in which end-use customers receive efficient price signals and do not assume long-term investment risks, and

investors and market intermediaries actively manage such risks, will best serve customers.

- 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?**

Please see response to question 4 below.

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

The recent movement towards empowering customers with more real-time information about their electricity usage demonstrates the increasing desire by customers to have more knowledge about when, and how, they consume electricity. For instance, when customers see real-time, market-based prices they can respond to those changing prices and reduce their electric bill by shifting or curtailing their consumption.

Theoretically, EDCs can deliver some of these benefits to customers via their time of use offerings; however, competitive suppliers have much stronger incentives, as well as the

appropriate entrepreneurial mindset, to develop innovative ways to assist customers in taking advantage of these unique opportunities. Unlike EDCs that have been given decades to realize this customer need and failed to appropriately respond to these needs with innovative options, competitive suppliers focus on meeting customer needs and reacting swiftly and aggressively to meet customer demands and changing market circumstances. If a supplier does not meet that demand, the customer will switch suppliers. There is no incentive for EDCs to react to customer needs in this manner or seek out the most cost-effective means to provide a competitive service. EDCs are the product of a cost-of-service regulatory environment. Historical recovery of costs is based on a “reasonableness” standard. Thus, EDCs did not have to be the most innovative or least expensive to recover costs incurred; the costs only had to be reasonable and necessary. In a competitive market, “reasonable and necessary” should not necessarily win the day. Allowing EDCs to provide default service will undermine the abilities of alternative suppliers, who are used to a competitive standard in order to survive and thrive, from standing a chance to provide benefits to customers. Moreover, the overall costs to customers will be higher because “reasonable” will be good enough for cost recovery.

In addition, with EDCs out of the default service role, competition will flourish as competitive suppliers will have incentives to develop value-added services and product offerings to meet their customers’ needs and desires. As stated above, competitive suppliers have strong incentives to attract and retain existing customers to maximize the lifetime value of the consumer in order to capture market share and enhance profitability.

This is accomplished through better understanding of customer desires (e.g., recognizing that customers are different and developing products that address customers preferences: length of fixed price term, renewable energy, demand response, smart energy, quicker response times, eliminating busy signals, and so forth). In short, robust retail competition aligns the industry value chain with the customer as competitive suppliers have strong incentives to satisfy customer demand for supply and services.

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)?

In a fully-functioning competitive electricity market, the EDCs should not continue to serve as the default supplier. Relieving the EDCs of this responsibility will enable them to focus on their core competencies and obligations for reliability and safety. It also will allow them to focus their limited resources on the infrastructure investment needed to modernize and maintain their transmission and distribution systems.

In addition, allowing the EDCs to focus on their core competencies alleviates any issues associated with unbundling that continue to exist in the current market structure. Overhead for “retail” functions such as billing and customer service would be greatly reduced when the EDC is out of the default service role. Competitive suppliers, with the need to keep these costs down to remain competitive, would take on the obligation for

these functions and ratepayers will reap the benefits through their ability to choose different suppliers – some of whom will undoubtedly have a lower overhead cost structure.

If an EDC has a strong competency in the billing service role and wants to offer that service to suppliers that choose this billing method the EDC should be allowed to make that service available as a fee-based service in the same way that any other billing agent provides such billing service. No rate cases are needed to determine those charges – as suppliers will pay a going-market rate and the EDC will be providing a competitive service to the supplier, reimbursed at the negotiated rate between the EDC and supplier.

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 the 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?

Pennsylvania is on the precipice of realizing a fully-functioning competitive retail electricity market. The Commission now has the opportunity to leverage the great progress made to-date and to ensure that the retail revolution it initiated continues by

implementing a fundamental change in the way electricity is supplied to retail customers in the Commonwealth.

The EDCs should be removed from the default service role for all customer classes. Although this is a dramatic shift in policy, it is absolutely critical to the sustainable success of the competitive market. Successes in other markets – notably the Texas retail market – demonstrate that competition does thrive when the utility is not the default service provider. Such a fundamental shift requires a rational and well-planned transition.

NRG recommends the following as a transition to a market structure in which the EDCs are removed from the default service provider role for mass market customers (the details for which should be addressed in phase 2 of this proceeding):

- Establish a date certain (transition date) upon which the market will transition from the current structure to the new structure.
- At the transition date, customers who have elected not to choose a new supplier will be randomly transitioned to a pre-qualified alternative supplier (a “transition supplier”).
- Transition suppliers will be prohibited from requiring a long-term contract commitment or charging termination fees to customers that are transitioned to them. The transition customers will be free to shop at any time.

- A single transition price should be established (for each EDC territory) that all transition suppliers will be required to charge to the customers they receive as a result of the transition. By requiring that all suppliers charge the same price, no customers are disadvantaged or negatively impacted as a result of being transitioned to any of the pre-qualified suppliers.
- The initial transition price will be market reflective, such as an indexed market price or a discount to the prevailing PTCs at the time of the transition so that customers who choose, and customers who choose not to choose, will have an equal opportunity to realize the benefits of competition.
- Pre-qualified transition suppliers will be required to hold the transition price constant for at least 3 months to allow customers to get acclimated to the new design.
- This transition date must be set far enough in advance to allow for adequate planning and, most importantly, customer education, to ensure a smooth transition occurs.
- In the period leading up to the transition date, the PUC should undertake a series of actions to enable the transition to occur. Such actions include:
 - **Pre-qualifying suppliers:** a set of specific and agreed-upon criteria, including participation of utility affiliates, must be established and a process implemented to pre-qualify suppliers interested in becoming default suppliers.

- **Transition Price:** a market-based pricing mechanism must be established to set the initial default service market price (such as an indexed market price).
- **Market Share Cap:** a market share cap should be established to ensure that all pre-qualified suppliers receive an equal market share and that no single supplier is advantaged with market power. A determination regarding the appropriate size and other pertinent mechanisms associated with the market share cap should be further defined in a subsequent proceeding.
- **Customer Education:** an aggressive customer education campaign should be developed and implemented to ensure customers are aware of the transition and what it means for them.

The above proposal has several benefits. First, setting a single transition price that must be fixed for a set amount of time and requiring that customers be permitted to shop without penalty ensures that customers are not negatively impacted. Second, this structure provides a process for the PUC to ensure that all transition suppliers meet established criteria. Third, it creates a level playing field for all qualified suppliers by allowing them to elect to participate or not on the same terms. Fourth, it empowers customers to realize the price benefits of a retail market. Finally, and importantly, it establishes a fair threshold market structure for suppliers to compete on both price and non-price services, and sets Pennsylvania on a path to realizing a fully functioning, robust, sustainable competitive retail electricity market. The detailed mechanics

required to implement the new market structure and the transition to it should be addressed in phase two of this proceeding.

As discussed above, while a large percentage of the large commercial load has switched to competitive supply and is realizing the benefits of competition, 40% of the industrial customers and 70% of the commercial customers have not, for whatever reason, taken advantage of the opportunities before them. Therefore, a similar process should be developed for large commercial customers with a pre-qualified transition supplier that will provide service at an hourly market based price. Until the EDCs completely exit the default service role for all customer classes and subsequently all customers are actively participating in the competitive market, a robust, sustainable market characterized by innovative, value-added product and service offerings will not develop.

- 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?**

The ability for suppliers to offer their own consolidated billing is critical to moving the market in Pennsylvania forward. It is imperative that suppliers, the entities best suited to provide end-use customers with unique products and services tailored to meet individual needs, have the opportunity to create an on-going relationship with their customers. To maximize the benefits of a competitive market, retail suppliers must

have the option of frequent, regular access to the customers making decisions about the products and services they are purchasing. Absent frequent communication with the supplier via customer service, billing, etc., customers will only see competition as artificially limited by unnecessary restrictions. They will have less information upon which to base their purchasing decisions and the market will be less likely to flourish as suppliers will not have incentives to innovate in order to differentiate their products offerings.

Customers choose products and services for any number of reasons; price, renewable energy content, flexibility, brand name, expected service quality, and value-added products and services, to name a few. If the provider of the product and service does not have the opportunity to frequently access to the customer to differentiate what they are offering from a competitor's products, the customer will not have complete information on which to base a decision.

For example, in Texas retail suppliers are the primary point of contact for end-use electricity customers and they maintain the ongoing relationship with those customers. Retail suppliers market their products and services, field customer inquiries about their electricity usage and send customers their bills. The regulated transmission provider sends the retail supplier their charges for transmission and distribution service, and the retail supplier pays those charges within a Commission-approved time period, regardless whether the end use customer pays the retail electric provider.

With this design, the utility bad debt risk and operational costs are significantly reduced because the utility is agnostic as to whether the end-use customer has paid. Additionally, absent the requirement to handle a majority of billing and general customer service inquiries, the EDC overhead to support these operations is significantly reduced, resulting in lower overall utility costs that ratepayers must bear. There is no reason to believe the same result cannot occur in Pennsylvania. The EDC's overhead related to call center agents would be reduced and costs related to ever-changing requirements to support billing requirements would be eliminated. Additional cost savings would be realized as the EDC's bad debt is reduced and/or eliminated because suppliers would be paying the utility's bills within a Commission-determined period of time, irrespective of whether the end use customer pays the supplier. While this model can increase bad debt exposure to the supplier, it is a necessary by-product of true competition. This risk should lie with the entities that are competing with each other, not the regulated entity that is providing a tariffed service. With supplier consolidated billing design, suppliers assume the bad debt risk that utilities would otherwise have. This additional risk can only be assumed because competitive suppliers do not have an obligation to serve non-paying customers.

Direct access to the customer through the electricity bill is part and parcel of an overall model that further enables suppliers to bring customers a myriad of choices from which to choose. NRG encourages the PUC to explore and develop an appropriately structured supplier consolidated billing model as it moves forward in its ongoing transition to a fully competitive retail electricity market.

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

NRG agrees that today's EDC-provided default service design provides inherent benefits to the utility that must be removed to ensure consumers are equipped with the tools and information they need to make educated choices about their electricity supplier. Please see the response to questions 5, 6, and 7 above for additional information on measures that should be taken to ensure this outcome is achieved.

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?

Should the PUC decide that it is not ready to take the steps necessary to move to a fully functioning retail market, NRG recommends several improvements to the current pricing structure and operational rules that would greatly benefit consumers and suppliers, transition the market in the right direction, and help create a more efficient market.

Market Reflective Pricing: At a minimum, the current default service procurement structure needs to shift to more frequent and shorter electricity supply procurements to allow for more market reflective pricing to consumers. While it is true that the current pricing structure allows for quarterly price adjustments, because only a small portion of

the price is adjusted, customers are not receiving market price signals that allow them to make informed consumption decisions.

Supplier Consolidated Billing: As stated above, supplier consolidated billing should be developed (for suppliers that choose to offer this service) to further enable suppliers to become the primary point of contact for consumers and allow for more direct, comprehensive communication between suppliers and customers.

Value-Added Products/Services: The commission should explore ways to enable the development of more value added services by suppliers. As currently structured, the EDCs are required to offer various products and services (e.g., energy efficiency, conservation, time-of-use products) that are truly competitive energy services, more appropriately provided by retail suppliers to ensure competition and innovation.

Streamlined Commission Regulations/Operating Rules: The retail market would also benefit from an effort to streamline and consolidate the existing regulations and numerous PUC orders and secretarial letters that set out the rules governing supplier activities in the market. Consolidating the rules would make it significantly easier for suppliers to ensure that they are in compliance and free commission staff resources from answering the myriad of questions they receive from suppliers on a regular and ongoing basis. Including all applicable requirements in one place – namely, the Pennsylvania Code of Regulations – would eliminate supplier confusion and frustration and improve efficiency for all parties involved. The PUC should consider initiating a proceeding to

combine the many rules and existing orders. It would also be beneficial if the PUC and its staff opened a dialogue with suppliers on administrative implementation issues to clarify various operational requirements.

Standardized Customer Information: As described in the answer to question 2 above, NRG recommends that the Commission undertake an effort to introduce some standardization of customer information documents required by suppliers on the PA PowerSwitch website.

Customer Choice on Day One of Service: The commission should undertake an effort to develop the mechanisms necessary to enable customers to select a competitive supplier on the first day of service. Customers should not be required to initiate service with an EDC and stay on that service for an entire billing period before being permitted to choose a supplier. Customers should be able to choose a supplier on day one, whether they are new to an EDC service territory or moving within an EDC's service territory. Similarly, the time it takes to switch suppliers must be expedited to meet both the customers' expectations and the dynamic and changing needs of the marketplace. The implementation of Smart Meters enables these kinds of improvements.

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?

All of the changes NRG recommends in these comments can be implemented by the PUC without a legislative change. Therefore, no particular revision is required. Of course, to the extent the legislature passes a statute requiring the implementation of these policies or establishes a public policy to foster competition that would likely create an incentive to achieve full and robust competition on a more accelerated time frame.

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

Implemented properly, smart meters have the ability to revolutionize customer consumption behavior as customers are able to take advantage of the innovations that competitive suppliers will develop to meet their needs. Smart meter technology has the ability to accelerate the benefits of competition.

The meters themselves do not create barriers; however, how the technology is implemented could. It is very important that the implementation be done correctly. For example, it is critical that the data captured by the meters be made available to suppliers in real-time so that suppliers can see customer demand and design products and services based on those consumption patterns. Similarly, and perhaps most importantly, suppliers' delivery requirements need to be settled on that data, not on customer load profiles. If a supplier receives supply instructions that do not reflect the actual usage, they have no economic incentive and are in fact unable to develop product offers to meet customer needs. By enabling the innovation customers will have the best opportunity to

make wise consumption decisions. Suppliers can and will have the incentive to innovate products and services so customers can use this information.

For example, in Texas, Reliant offers a weekly summary email that enables customers to see their usage by day. This has spurred the development of numerous products and services, including Pre-Pay products, home energy monitors that can educate customers in real time about their consumption, and even energy usage applications for smart phones. The result is a fundamental shift in customers' mindsets about the benefits of electricity consumption information. Customers have learned that price is not the only or even most important factor in their energy consumption practice – they are becoming conscientious energy consumers.

Conclusion

NRG appreciates the PUC's commitment to moving Pennsylvania's competitive retail electricity market forward and to empowering customers to make choices about their energy consumption. The next logical step to developing the market is enabling customers to work through their electricity consumption needs and desires with retail suppliers. Shopping for a supplier and switching suppliers should be as easy as possible. The real measure of success of Pennsylvania's competitive retail electricity market is the value the customer sees and, until the operational barriers existing today are eliminated, customers' ability to realize those benefits will be hindered. NRG appreciates the opportunity to provide the above comments and looks forward to working with all market participants to create a fully workable competitive market that ultimately enables all

customer classes to realize the broad array of benefits that can be reaped only from a vibrant wholesale and retail market. Finally, NRG generally endorses the comments of the Retail Energy Supply Association (“RESA”) in this proceeding.