



Electric Power Supply Association
*Advocating the **power** of competition*

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December 12, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

Attention: Docket No. I-2011-2237952

Dear Secretary Chiavetta:

The Electric Power Supply Association ("EPSA") appreciates the opportunity to submit the attached comments on the Commission's Tentative Order dated November 8, 2012, addressing the end state of default service, a product of the Commission's pending Investigation of Pennsylvania's Retail Electricity Market Investigation ("RMI") in Docket No. I-2011-2237952.

Please contact the undersigned with any questions or communications concerning this submission and matters relating to this docket.

Sincerely,

/s/ Nancy Bagot

Nancy Bagot
Vice President
Electric Power Supply Association

Cc: Office of Competitive Market Oversight - Retail Markets Investigation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

INVESTIGATION OF :
PENNSYLVANIA’S RETAIL : **DOCKET NO. I-2011-2237952**
ELECTRICITY MARKET :

**COMMENTS OF THE
ELECTRIC POWER SUPPLY ASSOCIATION**

I. Introduction

The Electric Power Supply Association (“EPSA”)¹ respectfully submits these comments in response to the Pennsylvania Public Utility Commission’s (“Commission”) November 8, 2012 Tentative Order (“Tentative Order”) addressing issues related to the proposed model for the end state of default electric service. As an overarching matter, EPSA commends the Commission’s support of competitive wholesale and retail electricity markets as reflected by the Commission’s efforts in initiating this proceeding, among others. EPSA’s members are wholesale suppliers in Pennsylvania and the PJM Interconnection, LLC (“PJM”) region, leaders in innovation in the energy marketplace, and actively engaged to provide load-serving entities with reliable and competitively priced power, and given the intertwined nature of the retail and wholesale electric markets, are therefore significantly affected by the outcome of this proceeding. It appears there are a number of elements of the Tentative Order that will further advance retail electric competition in Pennsylvania, and EPSA is therefore generally supportive of the order. However, EPSA has

¹ EPSA is the national trade association representing competitive power suppliers, including generators and marketers. These suppliers, who account for nearly 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities serving global power markets. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

concerns regarding Section M of the Tentative Order addressing Future Long-Term Alternative Energy Credits (“AECs”) and urges the Commission to (1) not alter the current procurement policies for AECs, and (2) continue to allow the competitive AEC market to function as intended to send the proper price signals for renewable generation when needed. EPSA’s comments herein focus on that specific section, which contain provisions that appear contrary to the Commission’s longstanding and laudable support for continued development of wholly competitive, well-functioning markets.

II. Communications

The name and address of the person to be served with communications concerning this submission and matters relating to this docket is:

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III. Comments

EPSA appreciates the Commission’s efforts to develop robust competitive retail electric markets in Pennsylvania, including in this proceeding, as well as the strong support the Commission has provided generally and in specific proceedings for well-functioning and highly competitive wholesale electricity markets. It is within that context that EPSA responds to Section M of the Tentative Order, which seeks comment on specific proposals including whether and how future long-term contracts for AECs might be treated or required by the Commission to “ensure that the

percentage goals of the Alternative Energy Portfolio Standards Act (“AEPS”) are reached.”² The discussion indicates that the Commission would support subsidized long-term contracts to “help facilitate a successful capacity build-out of AEPS-qualified generation facilities by mitigating long-term cash flow risks for relevant generation owners or financiers.”³ The Commission appears to support payment of these AEC contracts through a non-bypassable allocation to electric generation suppliers.

EPSA has significant concerns regarding this proposal because subsidized long-term AEC contracts are anti-competitive and counter to the Commission’s historic support of fully competitive energy markets. This proposed approach, if implemented, would interfere in the energy market by deterring competitive investment in economic generation resources and impede the competitive retail market broadly. Besides the harm to competitive markets, this proposal is not even necessary for Pennsylvania to meet its AEPS goals. The Commission has separately determined there is sufficient renewable generation in PJM to meet Pennsylvania’s AEPS requirements through at least the next three years.⁴ EPSA urges the Commission to allow the market to work as intended, with additional renewable development spurred as needed through proper market price signals, and accordingly, urges the Commission not to modify the AEC procurement policies, allowing customers to continue to choose how best to meet their own individual electricity needs, including renewable generation.

² Tentative Order at Section M., p. 37. The act [AEPS] of November 30, 2004 (P.L. 1672, No. 213).

³ Tentative Order at Section M, p. 37.

⁴ 2011 Annual Report Alternative Energy Portfolio Standards Act of 2004 at p.ii.

It is important to highlight that as a national trade association, EPSA is primarily focused on federal regulatory policy matters. As most state-specific regulatory matters are outside EPSA's normal purview, the association's involvement at the state level is very targeted and typically related only to matters that threaten wholesale electric markets, as is the case here. From a policy-making standpoint, EPSA has a concern that, in general, the states look to one another in development of policy proposals. EPSA believes the AEC long-term contracting proposal presents a "slippery-slope" scenario with regard to future policies that may be considered not only in Pennsylvania down the line, but by other states as well. In other words, the AEC procurement proposal is not as simple and light-handed as the Commission may envision. First, it may well harm both Pennsylvania's competitive retail markets and the region's competitive wholesale markets. Second, it runs the risk of being expanded and extended to other resources by policymakers in other states, presenting a broader concern from a competitive market standpoint. Anti-competitive policies, of any scale, open the door for "a little more" unnecessary resource subsidization in Pennsylvania and elsewhere, which in turn leads to "a little more" and then a "little more" until the competitive market has been wholly undermined.

Consistent with our concern in this matter, EPSA has also presented testimony in state and federal proceedings opposing policies proposed in New Jersey and Maryland that subsidize new uneconomic and unneeded electric generation (while at the same time placing the long-term burden of such costs on consumers). EPSA, like this Commission, cautioned that the market price distortion caused by state policies to subsidize generation have long-term negative consequences on competitive markets broadly. Accordingly, EPSA has strongly supported rules in PJM (and in other ISOs/RTOs) that mitigate negative impacts from out-of-market

subsidization and will continue to caution states from implementing such policies in the first place.

IV. Conclusion

Wherefore, for the foregoing reasons, EPSA respectfully requests that the Commission consider EPSA's comments in rendering its decision in this proceeding. Specifically, EPSA urges the Commission not to modify the AEC procurement policies, allowing the competitive market to function as intended and drive proper price signals that incent new renewable generation development when needed.

Respectfully submitted,

/s/ Nancy Bagot

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Dated: December 10, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the comments via email upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., December 10, 2012.

/s/ Nancy Bagot

Nancy Bagot, VP of Regulatory Affairs