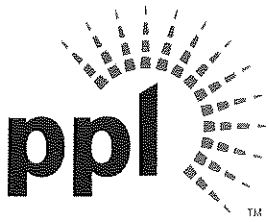
**Paul E. Russell**
Associate General Counsel

**PPL**
Two North Ninth Street
Allentown, PA 18101-1179
Tel. 610.774.4254 Fax 610.774.6726
perussell@pplweb.com



**E-Filing**

December 10, 2012

Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

**Re: Investigation of Pennsylvania's Retail Electricity Market:**
**End State of Default Service**
**Docket No. I-2011-2237952**

Dear Ms. Chiavetta:

Enclosed for electronic filing is an original copy of the Comments of PPL Electric Utilities Corporation and PPL EnergyPlus, LLC in the above-captioned proceeding. I also have submitted a copy of the enclosed Comments to the Office of Competitive Market Oversight Retail Markets Investigation inbox at ra-RMI@pa.gov.

In addition, I have submitted copies of the Comments to Megan Good, Bureau of Technical Utility Services at megagood@pa.gov, and Kirk House, Office of Special Assistants at hhouse@pa.gov.

If you have any questions regarding the enclosed Comments, please call.

Very truly yours,

Paul E. Russell

Enclosure

cc: Ms. Megan Good
Kirk House, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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|---|---|---|
| Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service | : : | Docket No. I-2011-2237952 |

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**Comments of**
**PPL Electric Utilities Corporation**
**PPL EnergyPlus, LLC**

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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

## 1. Introduction

On November 8, 2012, the Pennsylvania Public Utility Commission ("PUC" or the "Commission") entered a Tentative Order setting forth for comment a proposed default service model that, as stated in the Tentative Order, the Commission believes will encourage greater consumer participation and improve competition in the current retail electric market. The proposed model was developed based on input from stakeholders participating in the Commission's *Investigation of Pennsylvania's Retail Electricity Market* ("RMI") which was initiated by Order entered April 29, 2011 at Docket No. I-2011-2237952 ("April 29 Order"). The RMI has been conducted in a series of phases consisting of an initial fact finding phase, a phase during which intermediate term issues were addressed, and the current phase during which long-term issues are being addressed. The current phase began with an *en*

*banc* hearing on March 21, 2012. In this phase, parties shared their perspectives on three end-state models which were developed and distributed by the Commission's Office of Competitive Markets Oversight ("OCMO") prior to the *en banc* hearing. After considering the feedback provided, OCMO developed a single end-state model that was distributed by Secretarial Letter dated September 27, 2012 and was the subject of a technical conference held on October 17, 2012. Through this Tentative Order, the Commission is re-issuing the proposed model for the purpose of obtaining written comments. In addition, in a statement issued November 8, 2012, Commissioner Pamela A. Witmer set forth four additional questions regarding energy efficiency and conservation services on which she seeks comment.

PPL Electric Utilities Corporation ("PPL Electric") is a "public utility" and an "electric distribution company" ("EDC") as those terms are defined under the Public Utility Code, 66 Pa.C.S. §§ 102 and 2803, that is subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution and transmission services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine (29) counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania, as well as default service provider ("DSP") services to customers within its service territory who have not chosen an alternative electric generation supplier ("EGS").

PPL EnergyPlus, LLC ("PPL EnergyPlus") is an EGS as that term is defined under the Public Utility Code, 66 Pa.C.S. § 2803. PPL EnergyPlus has been licensed to provide competitive electricity supply in Pennsylvania since the industry

was restructured in 1998. In these comments, PPL Electric and PPL EnergyPlus are referred to as the "PPL Companies" or "the Companies."

PPL Electric, PPL EnergyPlus, their parent PPL Corporation, and their predecessors are and have been active supporters and advocates of both wholesale and retail electricity competition and the development of customer choice within the Commonwealth. The PPL Companies appreciate the opportunity to participate in this investigation and commend the Commission for its continued efforts to improve the retail electricity market in Pennsylvania. The PPL Companies have been active participants since the inception of the RMI and will remain so throughout implementation. Because the PPL Companies participate in the Pennsylvania retail electricity market as both a regulated EDC and a competitive EGS, their comments will provide the Commission with a broad and valuable perspective as it moves forward with this investigation.

For the sake of clarity, the specific comments provided by the PPL Companies in Section 3, below, are organized under the headings used in the Tentative Order. In some cases, comments under the individual headings reflect a common theme. In Section 2, the PPL Companies summarize those themes.

## 2. General Comments

The PPL Companies believe customers will be more likely to shop and the competitive market will be more likely to develop innovative products if EDCs are not in the role of default supplier. The PPL Companies, therefore, view the instant proposal not as an end-state but as the next logical step in an evolution that began

(under the Competition Act) with default service provided only by the EDCs at capped rates; continued (under Act 129) with a somewhat market-reflective default service product that still shielded customers from the market; and now moves to a more market-reflective default service product that should allow the market to produce products and services that meet customer needs.

The PPL Companies believe that, consistent with the assignment of certain responsibilities to the EDC as default service provider within the Tentative Order, the Commission should take this opportunity to ensure that should an EDC seek to relinquish the role of default service provider such duties shall be performed in a manner that achieves the Commission's objectives and meets the needs of the residents and businesses of Pennsylvania.

The PPL Companies believe a fundamental principle of a competitive generation market is the belief that markets will find more innovative solutions and economic efficiency than regulation. Consistent with that belief, the PPL Companies:

- Oppose the proposal for EDCs to continue purchasing Alternative Energy Credits ("AECs") through long-term contracts.
- Support bringing more participants into the energy efficiency and conservation market through market mechanisms.
- Support the continued pursuit of innovations in various areas including supplier consolidated billing, but recommend a practical approach that sets priorities and establishes reasonable expectations and timelines.

## 3. Specific Comments

## A. Guiding Principles

Under this heading, the Tentative Order provides a brief history of the development of competitive retail electricity markets in Pennsylvania and identifies several issues that the Tentative Order describes as having been impediments to the further development of those markets. The PPL Companies offer comments on two of these issues in the sections that follow.

### 1. The Default Service Product Should be More Reflective of Market Conditions

The PPL Companies have, throughout this investigation, articulated the belief that the nature of the default service product and its price have more influence on whether customers shop than who offers that product. In that regard, the PPL Companies believe the default service product must be properly designed so that it is compatible with and reflective of the market. Accordingly, the PPL Companies concur that this principle should be reflected in any redesign of the competitive retail electricity market in Pennsylvania.

The PPL Companies believe it is appropriate to consider the default service product to be evolving. In its earliest form, and as established by the Competition Act, default service was a capped rate that provided customers protection from a not-yet mature market, but that also offered them little in the way of product diversity. With the passage of Act 129 of 2008, the default service product became somewhat reflective of market pricing, but must be procured in ways that continue to shield customers from the market and, thereby, stifle the development of competitive products and services. The PPL

Companies view the instant proposal as the next logical step; one that will allow the market to develop new products and services while protecting customers from price volatility and supporting continued development of the competitive retail and wholesale markets.

**2. The Current Default Service Product is a Highly Regulated Product**

The PPL Companies concur with the Commission, as discussed in detail under Section D, that the current law and regulations that define the default service product include elements that result in a product that is not sufficiently reflective of market conditions. The PPL Companies also concur with the Tentative Order's description of how these elements can work, as market prices rise and fall, to create "boom and bust cycles" that present a challenge to EGSs seeking to sustain a presence in the retail market. Further, the PPL Companies concur that, if left unchecked, such boom and bust cycles could result in fewer EGSs participating in the market, fewer products and services being developed and offered, and fewer customers purchasing electricity supply from EGSs.

This does not mean that the PPL Companies believe that default service should be unregulated. For an efficient and well defined marketplace it is imperative that regulations be in place to define the role of the DSP and the default service product:

- The DSP needs to retain the obligation to serve. It is imperative that the terms and conditions under which customers are provided default

service are carefully and completely defined regardless of whether the DSP is the EDC or a Commission-approved alternative supplier.

- The DSP needs to be technically capable and financially able to fulfill this role.
- The DSP needs to comply with Commission codes of conduct including those related to the sharing of information with other entities.
- In the event the DSP is an entity other than the EDC, the protocols by which the DSP and EDC interact need to be carefully and clearly defined so that, among other things, (1) the EDC's distribution customers are not subsidizing the DSP and (2) the design of the protocols does not prohibit others from fulfilling the role of DSP.

The PPL Companies are aware of jurisdictions wherein the regulations establish the use of simpler default service products. These include the use of standard default service products (such as New Jersey) and the use of a formula whose components are clearly defined and referenced (such as Texas). The result of implementing such laws and regulations appears to be less litigation and less uncertainty. Accordingly, the PPL Companies recommend an approach whereby changes are proposed to the Public Utility Code and to the Commission's regulations that are designed to achieve clearly defined public policy objectives as opposed to an approach whereby laws and regulations are eliminated in the hope that the "right" end-state will result. The end goal must continue to be the development of a retail market the provides benefits to all market participants; customers, EDCs, EGSs and policy makers.

**B. Provision of Default Service**

The Tentative Order proposes to retain the status quo wherein EDCs remain in the DSP role unless the Commission approves an alternate DSP pursuant to 66 Pa. C.S. §2803 and the Commission's regulations at 52 Pa. Code §54.183. The PPL Companies concur with this approach. As noted above, the PPL Companies believe both the default service product and the DSP should remain subject to regulation, and the regulations should be the same regardless of whether the DSP is an EDC or an alternate DSP. In this regard, the PPL Companies specifically note that not only EDCs, but also alternate DSPs have the right to recover their costs of administering default service on a full and current basis. 66 Pa. C.S. §2803(e)(3.9)

As noted above, the PPL Companies believe that it is appropriate to consider the default service product to be evolving. The PPL Companies also believe that other aspects of the service, including the party that provides it, should also be permitted to evolve. It has been asserted in this proceeding that customer confusion regarding the role of EDCs in the generation market may be an impediment to the development of diverse competitive products that ultimately will be beneficial to customers. The PPL Companies believe that allowing the EDC to exit the role of default supplier will help to alleviate customer confusion as to the EDC's true role as a "delivery" business that provides the same level of service regardless of the customers' choice of generation supplier. Accordingly, it would be inappropriate to establish that only EDCs may provide default service.

**C. Applicability of Proposed End State**

Under this heading, the Tentative Order proposes that the changes set forth be applicable to all jurisdictional EDCs in Pennsylvania. To the PPL Companies' knowledge, the only aspects of Title 66 from which smaller EDC's are exempt are the energy efficiency and conservation program requirements under § 2806.1(l) and the smart meter obligations under 66 Pa. C.S. §2807(f); see specifically 66 Pa. C.S. §2807(f)(6). Accordingly, aspects of the Tentative Order's recommendations regarding "Accelerated Switching" (Section I) that require the installation of smart meter technology may be difficult for smaller EDCs to achieve. Other than that particular set of recommendations, the PPL Companies agree that all of the other proposed changes should be applicable to smaller EDCs.

**D. Default Service Product**

The paragraphs that introduce this topic reiterate much of the history already described under Section A, "Guiding Principles," and conclude that default service products should be more reflective of market conditions. The PPL Companies concur. Also, as noted above, the PPL Companies concur that the opportunity for a party other than an EDC to provide default service should be retained. In these introductory paragraphs, the Tentative Order proposes "that EDCs maintain their present status as the DSP and retain the right to full recovery of costs associated with the provision of default service through the use of a reconciliation mechanism." The PPL Companies believe that it is important to reiterate that under

66 Pa. C.S. §2803(e)(3.9), not only EDCs, but also alternate DSPs, have the right to recover their costs of administering default service on a full and current basis pursuant to a Section 1307 automatic adjustment clause.

In these introductory paragraphs, the Tentative Order also comments on how reconciliation can introduce additional adjustments to the Price to Compare ("PTC") which result in the PTC being even less reflective of market conditions. Although the Tentative Order doesn't discuss this matter in regard to the products proposed under separate sub-headings within Section D, the PPL Companies observe that the PTC that would result from the proposed residential and small commercial and industrial product would be less dependent on forecasting than currently is the case. Therefore, it likely would produce smaller reconciliations and, thereby, further contribute to the goal of achieving a more market-reflective price. However, the PPL Companies believe that reconciliation is a complex issue and recommend that examination of the reconciliation process at Docket No. M-2012-2314313 now proceed to consider the issue specifically as it relates to these two products and to the continuation of specific existing long-term contracts.

1. **Medium and Large Commercial and Industrial ("C&I") Rate Classes**

   The Tentative Order proposes that DSPs offer to medium and large C&I customers a default service product that varies with hourly Locational Marginal Price ("LMP"). The Tentative Order further proposes, as "general guidance," that accounts with a demand of 100 kW or greater should be considered included in the medium and large C&I class. However, the Tentative Order also permits EDCs to propose a different delineation point in those cases

where an EDC's existing rate schedules may render the 100 kW threshold impractical. Finally, the Tentative Order proposes customers in this group be charged LMP using load profiles if interval meters have not been deployed.

PPL Electric currently provides real time default service (reflective of hourly LMPs) to C&I customers whose Peak Load Contribution ("PLC") is greater than 500 kW. In accordance with PPL Electric's current default service plan (effective January 1, 2011 through May 31, 2013), customers are classified based on their PLC established for the 2008-2009 PJM Planning Period (based on peak load that occurred during the 2007-2008 Planning Period). PPL Electric's proposed default service plan for the period June 1, 2013 through May 31, 2015 proposes to classify customers based on their PLC established for the 2013-2014 PJM Planning Period (based on peak load that occurred during the 2012-2013 Planning Period). In that plan, PPL Electric stated its intent to propose extending real time default service to customers with demands of less than 500 kW, but greater than 100 kW in its next subsequent default service plan with an implementation date of June 1, 2015. Because PPL Electric's rate schedules reflect service conditions rather than demands, there is no delineation point that is any more or less practical than 100 kW. Accordingly, the PPL Companies concur with the delineation point and schedule proposed in the Tentative Order.

The PPL Companies do take exception, however, with the proposal that, in the absence of interval meters, customers should be billed in accordance with load profiles. The PPL Companies are not aware of any

instance wherein customers' charges are routinely calculated by multiplying a rate by an estimate of usage that is not reflective of the customers' own usage pattern. The individual customers that fall into this group (i.e., customers with demands of less than 500 kW, but greater than 100 kW) represent a wide variety of customers (including manufacturers, generators, offices, schools and hospitals) who have diverse usage patterns. It is unclear how a representative load profile would be established for such a diverse group of customers who might, as a result of shopping, change character from time-to-time. The PPL Companies believe the more appropriate approach to developing the competitive market is to expand the deployment of interval meters and of smart meter capabilities so that customers' true usage patterns are revealed and served through the settlement process.

In this regard, PPL Electric proposed in its filing captioned "Petition of PPL Electric Utilities Corporation for Approval to Modify its Smart Meter Technology Procurement and Installation Plan and to Extend its Grace Period" (petition filed May 4, 2012 at Docket No. P-2012-2303075) to modify its customer information and billing system, and its meter data management system, to enable it to provide hourly default service pricing to C&I customers whose demand is less than 500 kW, but greater than 100 kW. The Commission's Order (entered August 2, 2012) denied PPL Electric's request; stating:

> "… (W)e find that this program will only benefit default service customers. We are concerned that having non-default service customers subsidizing an EDC's default service or any individual EGS's offering will provide inappropriate competitive advantages for those

> offerings. As this program will only benefit default service customers, the costs should be recovered through PPL's appropriate default service tariffs." Order at 9 and 10.

PPL Electric believes that the statement above requiring that costs be recovered only from default customers is inconsistent with the Tentative Order's proposal regarding medium and large C&I customers and with its proposal that "all metering services be retained with the EDC." Tentative Order at 32.

With regard to procuring wholesale generation to serve these customers, the Tentative Order proposes quarterly procurements. The PPL Companies observe that most of the components that make up this product are determined by the PJM markets and, therefore, reflective of the market. The PPL Companies further observe that the "administrative adder" is the only component that will be subject to head-to-head competition among suppliers. The PPL Companies do not believe the additional savings that might result from more frequent competition justify the administrative burden of procuring more often than annually. The PPL Companies do concur that the schedule for procurements, whether quarterly or annually, should synchronize the delivery date with the June 1 start of the PJM calendar.

**2. Residential and Small Commercial and Industrial (C&I) Rate Classes**

The Tentative Order proposes DSPs offer to residential customers and to small C&I customers a default service product that reflects quarterly procurements of tranches of full requirements, load-following supply. Procurements would occur one to two months in advance of the delivery date

for the upcoming quarter and would be synchronized with the June 1 start of the PJM calendar.

The PPL Companies agree such a product will be more reflective of market conditions than current default products. As such, the PTC will reflect seasonal price variations with higher prices occurring in the summer (June 1 through August 31) and winter (December 1 through February 28) and lower prices at other times during the year. Default service customers would have the responsibility to understand and manage the price volatility which may be caused by the seasons by seeking out EGS supply at a fixed price, signing up for budget billing, or both. As described above, the PPL Companies see this is a logical step in the evolution of the marketplace.

The PPL Companies also observe that, with these proposals for large and medium C&I customers and for residential and small C&I customers, all supply for default service for all EDC territories in the Commonwealth would consist of the same products and would be procured on the same schedule. The PPL Companies believe that, given this degree of standardization, it is appropriate that, as revisions to Title 66 and to the Commission's regulations are considered, consideration be given to introducing a common supply auction similar to the Basic Generation Service auction ("BGS auction") employed in New Jersey as a way to ensure the success of procurements in the individual EDC service territories and save ratepayers the cost of individual DSPs conducting their own procurements. The PPL Companies also believe this step could be a precursor to having DSPs that are not incumbent EDCs.

Under this heading, the Tentative Order also states, "Consistent with current procedures, EDCs will continue to provide estimates of the next quarterly PTC until the EDC has determined the tariffed PTC charge." This practice supports the requirement that EGSs must provide to their customers advance notice of an upcoming change in price or in terms and conditions in the three monthly bills rendered prior to the effective date of the change. 52 Pa Code §54.5(g)(1) The PPL Companies believe that if the obligation to provide default service is transferred to a Commission-approved entity other than the EDC, then the obligation to estimate the PTC for the next subsequent quarter also would be an obligation of that entity. Accordingly, the PPL Companies believe it would be more correct to state that "DSPs" rather than "EDCs" will provide this estimate.

**E. Transition Timeline**

The Tentative Order proposes the default service products described above be offered to customers effective June 1, 2015. This is consistent with the direction provided in the Commission's Orders captioned "Investigation of Pennsylvania's Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans" (Order entered December 16, 2011 at Docket No. I-2011-2237952) and "Investigation of Pennsylvania's Retail Electricity Market: Intermediate Workplan" (Order entered March 2, 2012 at Docket No. I-2011-2237952). In accordance with those orders, PPL Electric filed on May 1, 2012 a petition requesting Commission approval of its proposed default service plan for the period June 1, 2013

through May 31, 2015. See "Petition of PPL Electric Utilities Corporation for Approval of a Default Service Plan for the Period June 1, 2013 through May 31, 2015"; Docket No. P-2012-2302074 PPL Electric's Default Service Plan proposes a procurement plan under which all supply contracts expire by May 31, 2015 so that a relatively "clean" transition is possible on June 1, 2015. Thus, PPL Electric's proposal, if approved by the Commission, can accommodate the introduction of new default service products on June 1, 2015. PPL Electric presumes such products would be proposed in its, or a Commission approved alternate DSP's, next default service plan that would need to be filed (pursuant to 52 Pa. Code §54.185(a)) not later than May 31, 2014. Accordingly, the PPL Companies believe that the Commission's regulations would need to be modified in order to accommodate the filing date of July 1, 2014 proposed in the Tentative Order.

The PPL Companies concur with the proposal to seek legislative change in order to implement the products proposed in the Tentative Order. The Tentative Order proposes that necessary legislative changes be completed during 2013 and the PPL Companies concur that such an aggressive schedule is appropriate.

**F. Consumer Protections**

The Tentative Order sets forth the Commission's intent to ensure the levels of customer service and protections do not deteriorate from the levels in existence prior to the effective date of the Competition Act. The Tentative Order identifies six specific areas of consumer protection that are of concern and the

regulations associated with each. The Tentative Order concludes "(t)he protections that electric consumers have come to expect will remain intact and fully in effect" because "(o)ur proposed model keeps default service the responsibility of the EDC." Tentative Order at 20.

The PPL Companies concur that, unless revised, the statutory obligation must continue to be met. However, the PPL Companies believe that the Tentative Order has incorrectly linked compliance with that obligation to the EDC remaining in the role of default service provider. Furthermore, certain of the consumer protections identified in the Tentative Order have nothing to do with the provision of default service and would not be performed by or monitored by the DSP. Consequently, the PPL Companies believe that the Tentative Order may dismiss too quickly the possibility that elements of the proposed end-state may challenge current consumer protections or inhibit the ability of EDCs to carry out their statutory obligations. The discussion that follows is organized under headings that correspond to the six areas identified in the Tentative Order.

1. **Customer Information (52 Pa. Code §§ 54.1 – 9)**

   The PPL Companies have reviewed 52 Pa. Code §§ 54.1 – 9 and believe that the consumer protections provided by these regulations should be unaffected by the proposed end-state, except to note that while 52 Pa. Code § 54.4(b)(8) describes the circumstance of a customer receiving a separate bill for generation supply and 52 Pa. Code § 54.4(b)(9) describes the circumstance of a customer receiving a single bill from the EDC, there is no

discussion of the possibility of a customer receiving a single bill from the EGS. This matter is discussed further in Section H (“Supplier Consolidated Billing”).

**2. Reporting Requirements for Quality of Service Benchmarks and Standards (52 Pa. Code §§ 54.151-156).**

The PPL Companies have reviewed 52 Pa. Code §§ 54.151 – 156 and conclude that, because the reporting requirements relate only to EDCs and to functions that EDCs would continue to perform under the proposed end-state, the existence of the reports as a consumer protection should be unaffected by the proposed end-state.

**3. Universal Service and Energy Conservation Reporting Requirements. (52 Pa. Code §§ 54.71 – 78).**

The PPL Companies have reviewed 52 Pa. Code §§ 54.71 – 78 and conclude that, because the reporting requirements relate only to EDCs and to functions that EDCs would continue to perform under the proposed end-state, the existence of the reports as a consumer protection should be unaffected by the proposed end-state. Other topics related to Universal Service are discussed in Section H (“Portability of Benefits for Low-Income Customers”).

**4. Standards for Changing a Customer’s Electricity Generation Supplier. (52 Pa. Code §§ 57.171 – 179).**

The PPL Companies have reviewed 52 Pa. Code §§ 57.171 – 179 and conclude the proposed end-state would not reassign the key duties that must be performed to ensure this consumer protection. Most important in this regard is that the entity whose action causes a change from one supplier to another supplier remains the EDC as the interface with PJM in regard to

scheduling and settlement. This role is discussed further in Section J ("Provision of Metering Services").

**5. Marketing and Sales Practices for the Retail Residential Energy Market. (52 Pa. Code §§ 111.1 – 14)**

The PPL Companies have reviewed the regulations pending at 52 Pa. Code §§ 111.1 – 14 and conclude that, because these regulations apply exclusively to EGSs and because the proposed end-state would not alter the EGSs' need to market their services, the consumer protections to be provided by these regulations should be unaffected by the proposed end-state.

**6. Standards and Billing Practices for Residential Utility Service. (52 Pa. Code §§ 56.1 – 231).**

The PPL Companies have reviewed 52 Pa. Code §§ 56.1 – 231 and conclude that certain of the consumer protections provided by these regulations are of concern and may be at risk if supplier consolidated billing proceeds without appropriate regulations and precautions. As discussed in more detail in Section H ("Supplier Consolidated Billing"), the implementation of supplier consolidated billing raises concerns regarding the maintenance of accurate account balances and payment histories, which may weaken consumer protections related to the collection activities (i.e., issuing notices, establishing payment agreements, terminating and reconnecting service, etc.). The Tentative Order itself enumerates a number of these concerns on pages 26 and 27.

## G. Portability of Benefits for Low-Income Customers

In this section, the Tentative Order addresses both the continuation of universal services programs and the ability of customers participating in Customer Assistance Programs ("CAP") to participate in the competitive market. In the interest of clarity, the PPL Companies have grouped their comments on these matters under separate sub-headings.

**1. Continuation of Universal Service Programs**

In this section, the Tentative Order reiterates the obligation established in 52 Pa. Code §§ 54.71 – 78 for EDCs to submit universal service and energy conservation plans every three years to the Commission for review and approval. While the Tentative Order does not specifically state that this obligation shall continue unchanged, it does specifically state it is not proposing changes to three of the four elements that make-up universal service and energy conservation obligation: Low Income Usage Reduction Programs ("LIURP"), hardship funds, and Customer Assistance and Referral and Evaluation ("CARES") Programs. The PPL Companies concur that the obligation to provide these universal service programs should remain with EDCs and, with that obligation, EDCs should retain the right to full and timely recovery of all related costs through a reconcilable automatic adjustment mechanism. With regard to the fourth element, CAP, the Tentative Order proposes to change only participants' ability to participate in the competitive market. The PPL Companies' comments on the subject of CAP customers participating in the competitive market are provided below.

**2. Ability of CAP Customers to Participate in the Competitive Market**

The PPL Companies believe that, as a general matter, a properly functioning competitive environment should make available to customers cost-effective alternatives to default service. Therefore, the PPL Companies believe it would be inconsistent to prohibit customers who have the greatest economic need such alternatives from accessing them. Furthermore, there is no evidence to suggest that CAP customers do not have the capability to make shopping decisions, just like other customers. However, the PPL Companies acknowledge that having CAP customers participate in the competitive market requires that certain complexities must be addressed, including those discussed below.

- "Ineffective" shopping by CAP customers can create a burden on the rest of the residential population that supports the CAP program financially. However, "ineffective" shopping can mean many things including not achieving savings relative to the cost of default service (i.e., paying more than the PTC), not purchasing electricity supply at the lowest available price, or something completely different. The PPL Companies believe that it must be recognized that, even though the EDC remains the provider of universal services programs, the EDC may, under existing law and regulations and, as discussed above, not be the DSP.
- 52 Pa. Code § 69.265(3)(ii) prohibits CAP participants from subscribing to "non-basic services that would cause an increase in monthly billing and would not contribute to bill reduction." Non-basic services are defined in 52 Pa. Code § 56.2 to be, "Optional recurring services which are distinctly

separate and clearly not required for the physical delivery of public utility service or default service." The PPL Companies are aware of EGS offers that include gift cards, airline miles, and other inducements that, although not billed separately, would likely be considered to be non-basic services and could cause monthly billings to be higher than they might otherwise be. The PPL Companies do not know if such products are being offered to CAP participants.

The PPL Companies do not believe that these complexities are insurmountable and concur with the proposed approach wherein the mechanics necessary to address such matters would be specific to each EDC's plan.

With regard to logistics, the Tentative Order proposes that, if they have not done so, EDCs should "develop plans that allow their CAP customers, on or before January 1, 2015, to shop in the competitive market without restriction." The Tentative Order further states that OCMO "will work with EDCs to ensure that CAP customers throughout the Commonwealth are able to purchase supply from an EGS no later than January 1, 2015." The Tentative Order does not propose plan specifics, but states, instead, its intent to "let each EDC develop a plan suitable for its service territory." Tentative Order at 23. However, the Tentative Order does identify the following topics that the plans must address:

- How the plan will preserve the legislative mandate that universal service programs are available and funded.

- How the plan ensures protections, policies and services that assist low-income customers to afford electric service are maintained.
- The cost-effectiveness of the plan.
- Consumer education regarding accessing the competitive market aimed at CAP customers.

The PPL Companies believe the subject matter and process described by the Tentative Order are most logically addressed in the context of each EDC's 3-year universal services plan filing. PPL Electric's next filing is due in 2013 which would satisfy the Tentative Order's "on or before January 1, 2015" requirement. With regard to an effective date, the PPL Companies recommend June 1, 2015 as a more appropriate date (rather than January 1, 2015 as proposed in the Tentative Order) because it (1) provides for approval and implementation following a filing that might be as late as January 1, 2015 and (2) coincides with the end of the transitional default service plans (i.e., the plans in place for the period June 1, 2013 through May 31, 2015). In addition, the PPL Companies recommend that the Commission works to create processes and procedures, where applicable, that are consistent across all EDCs for a more efficient market.

**H. Supplier Consolidated Billing**

The Tentative Order states the Commission's belief that Supplier Consolidated Billing should be made available as part of a vibrant, competitive

market and proposes that OCMO provide a recommendation to the Commission by July 1, 2013 "as to how to proceed with making (Supplier Consolidated Billing) available as a billing option for EGSs and third parties." Tentative Order at 27-28. The Tentative Order acknowledges that the Supplier Consolidated Billing option arises from certain EDC restructuring settlements of the 1990's. Indeed, Title 66 does not discuss Supplier Consolidated Billing as an option; only that the EDC is responsible for billing all electric services subject to the right of an end-use customer to receive separate bills from its EGS. 66 Pa.C.S.A. §2807(c). The Tentative Order also recounts efforts involving EDCs, EGSs, and Commission staff that date back to the restructuring settlements to attempt to define a set of business rules for Supplier Consolidated Billing. Those efforts resolved little, and resulted in a long list of open questions and issues, some of which are listed on pages 26 and 27 of the Tentative Order. The Tentative Order concludes that although "the issues remain numerous and complex…none of these concerns present an insurmountable obstacle to making Supplier Consolidated Billing available."

While the PPL Companies are not prepared to state that any of the obstacles described in the Tentative Order are, indeed, "insurmountable," the number of open issues and questions indicate uncertainty as to whether certain consumer protections and current market success can be maintained. Furthermore, more than 10 years of investigation, discussion, and implementation of a simplified form of Supplier Consolidated Billing lead the PPL Companies to conclude that, even if a more complex Supplier Consolidated Billing can be implemented, it is likely to be costly to EDC billing systems and potentially disruptive to market operations. Finally,

the PPL Companies note that during the November 10, 2011 en banc hearing, the Commission heard presentations regarding customers' perceptions of choice and issues that caused them to remain on default service. None of the information presented identified billing options (or the absence of billing options) as being an impediment to shopping.

The PPL Companies do not, however, want to foreclose any areas that might provide an avenue for innovation that would ultimately benefit customers and the development of the retail market. Accordingly, the PPL Companies encourage the Commission to move cautiously in regard to Supplier Consolidated Billing. Specifically, this would mean seeking simple, cost-effective solutions, and setting due dates and priorities for billing system modifications that do not result in those systems becoming unstable and putting customer billing and energy settlement at risk. To the extent that OCMO seeks additional input in order to provide a recommendation to the Commission, the PPL Companies wish to participate in that process and will do so with our commitment to effective, well defined and properly regulated markets. PPL Electric is the only EDC that has implemented a simplified form of Supplier Consolidated Billing and its experience may have significant value. In particular, the PPL Companies note that the Tentative Order is seeking from OCMO a recommendation on "a billing option for EGSs and **third parties**." Tentative Order at 28; emphasis added. Although described above as a simplified form of Supplier Consolidated Billing, PPL Electric's current option is fundamentally a third-party model.

## I. Accelerated Switching

The Tentative Order proposes that, consistent with the Commission's Order entered October 24, 2012 and captioned "Interim Guidelines Regarding Standards for Changing a Customer's EGS" (Docket No. M-2011-2270442), Commission staff is to initiate a rulemaking to review and revise switching regulations. That review is to address off-cycle switching, as well as other options, to accelerate the switching process. In addition, the Tentative Order invites comments on the topics of "seamless move" and "day one switching." The PPL Companies concur with pursuing such a rulemaking, believe that "seamless move" and "day one switching" are appropriate topics to include in that effort, and look forward to participating. The PPL Companies also believe the implementation of any functionality that requires obtaining and processing an off-cycle meter read is embedded in smart meter functionality and the cost of implementation should be recoverable through the smart meter cost recovery mechanism established under Act 129 of 2008.

## J. Provision of Metering Services

The Tentative Order proposes that all metering services and PJM settlement functions be retained with the EDC. The PPL Companies concur and, further, believe these are functions that the EDC retain even if it were not serving as the DSP. In addition, the PPL Companies recommend that, as smart meter functionality is deployed pursuant to Act 129 of 2008, regulations and tariffs should be modified to remove provisions that allow for competitive metering. While the PPL

Companies generally support opportunities for competitive entities to bring innovation to the marketplace, public policy, as articulated in the smart meter provisions of Act 129, establishes that certain relatively sophisticated technology and functionality be available to all customers whether they desire to avail themselves of the functionality or not. As a practical matter, therefore, that functionality must be deployed by the EDC and, because of its sophistication, the installation of alternate technology by EGSs in service territories where smart meter technology has already been deployed is unnecessary and likely to be highly disruptive to billing and settlement processes.

The key in these service territories is not which party provides metering services, but access to the real-time usage data and other relevant information the metering provides. Therefore, the PPL Companies believe the focus should be on implementing technology enhancements that allow for greater access to information that allows the market to innovate, provide new products and services and better serve the residents and businesses of Pennsylvania.

With regard to settlement functions, the PPL Companies believe that a number of practical reasons support the EDC remaining in that role. However, the PPL Companies remain concerned that, as the settlement entity, the EDC may incur generation costs that arise from metering, billing, or settlement errors, and from the failure of other participants to meet their supply obligations. This issue has been discussed during the investigation in (1) the context of the EDC being relieved of the default service obligation and (2) the context of the EDC serving in the role of provider of last resort behind a non-EDC default service provider and for CAP participants. While the proposal articulated in the Tentative Order eliminates the

second structure from consideration at this time, the first remains a possibility should an EDC choose to petition under existing regulations to be relieved of that obligation. An EDC providing default service has a generation supply charge mechanism available that allows it to recover the costs described above. If another entity were to take on the default service role, the EDC might no longer have a cost recovery mechanism available to it. Accordingly, the PPL Companies believe that it is appropriate to pursue legislative language that establishes the right of the EDC that is not the DSP but still performing settlement to recover costs associated with performing that function on a full and timely basis.

**K. Provision of Energy Efficiency and Conservation ("EE&C") Programs**

The Tentative Order proposes that EDCs continue to provide EE&C programs as defined within Act 129 and, also, encourage EGSs to provide energy efficiency services to customers. The PPL Companies believe that, ideally, these programs should be provided through a market environment, including EGSs, Conservation Service Providers (who are currently engaged by EDCs under Act 129), Curtailment Service Providers (who provide demand reductions to PJM), and others. The PPL Companies believe that responding to customer needs in this way will result in products and services that are more innovative and which better meet customer needs.

The PPL Companies understand that Act 129 was enacted at a time when rate caps were ending and significant price increases were anticipated, but it is fundamentally a throw-back to the old days of integrated resource planning and

command-and-control regulation wherein conservation programs, funded through a non-bypassable charge, were compared to ratepayer-funded generation options. As such, it is, at least to some extent, inconsistent with a competitive generation market, limits the options available to those the EDCs need to achieve compliance, and distorts customers' view of the market in ways that may inhibit the further development of that market. The PPL Companies believe that, ideally, the current Act 129 structure should be eliminated and market price signals and market opportunities should be allowed to work freely to find the set of reduction measures that are most economically efficient.

The PPL Companies want to be clear that they are not opposed to conservation. Rather, they simply believe that conservation (or for that matter the adoption of electro-technologies that may increase consumption) should be the result of customers seeing prices that are reflective of the market and the true cost of the burden they place on the market. Commissioner Witmer's questions (posed separately from the Tentative Order in her statement dated November 8, 2012) raise the possibility of encouraging EGSs to provide EE&C services and how the provision of such services might coordinate with EDCs' mandated obligations under Act 129. The PPL Companies have a number of concerns:

- New entrants in the EE&C market would be at a competitive disadvantage if they are required to compete against programs that are subsidized and marketed using ratepayer funds.
- New entrants, especially if subsidized, would cannibalize efficiency opportunities otherwise available to EDCs, increasing the risk that EDCs may

be subject to significant penalties for failing to comply with their EE&C obligations.

- Requiring EDCs to include EGS programs might seem to address the anticompetitive issues, but the limits on total funding mean that there cannot be an unlimited number of participants. Furthermore, the percentage of funding that can be spent on administrative costs is capped and unlikely to support the administration of a large number of small program providers.

The PPL Companies observe that, in many ways, Act 129 establishes the EDCs as the default provider of EE&C services. If the objective is to create a more robust competitive market for EE&C services, the PPL Companies believe consideration should be given to legislative proposals eliminating the default EE&C product and allowing market forces to drive customers' wise use of electricity.

In addition, the current restriction in Act 129 that prohibits an EGS from providing energy efficiency and conservation programs in the service territory of its affiliated EDC should be lifted to allow new and innovative programs from the competitive market to be available to all customers in the Commonwealth.

**L. Existing Long-Term Contracts**

The Tentative Order proposes to hold all presently-effective AEC, default supply, and PURPA contracts harmless from any of the proposed changes in Pennsylvania's retail markets. It proposes to do this on a case-by-case basis with each EDC proposing to the Commission specifics addressing issues related to their specific set of long-term contracts. The PPL Companies interpret the use of the term

"all" to mean that not just contracts of a certain duration are to be held harmless, but that any contract that extends beyond June 1, 2015 will be held harmless.

The PPL Companies support measures to assure the sanctity of contracts, and the fair and equitable treatment of parties who, in good faith, entered into those contracts in reliance on the existing regulatory structure and, in most cases, with the specific approval of the PUC. While, as a practical matter, it is probably necessary to deal with this matter on a case-by-case basis, the PPL Companies nevertheless encourage the initiative proposed by the Commission to introduce legislative change that includes language to ensure a statutory basis for EDCs to recover any costs that may be stranded.

**M. Future Long-Term Alternative Energy Credit Contracts**

The Tentative Order proposes procurement of AECs by the either the DSP or the EDC through long-term contacts with guaranteed payments to alternative energy developers through a non-bypassable charge applied to both shopping and non-shopping customers.

The PPL Companies believe AECs are fundamentally a generation product. Requiring the either the EDC or the DSP to enter into long-term contracts to obtain AECs is not necessary to help Pennsylvania meet its alternative energy goals, and in fact is anti-competitive and contrary to the objectives of the Retail Markets Investigation. There is no evidence to suggest that the competitive market is not working to meet the Alternative Energy Portfolio Standards' ("AEPS") goals. In fact, current AEC prices are low because of an excess of renewable generation,

demonstrating that the market is, in fact, sending proper price signals. Customers are benefiting from those lower AEC prices.

Subsidies for the development of generation through non-bypassable charges will distort the competitive market and hinder future development of generation without subsidies. Similar legislative efforts to modify AEPS requirements were unsuccessful. The Commission should not attempt to substitute regulation for legislative efforts.

**N. Statewide Consumer Education Campaign**

The Tentative Order proposes a comprehensive statewide consumer education program regarding shopping issues that would be launched by June 2014 with funding to be shared between EDCs and EGSs. In noting that existing EDC consumer education plans "expire in 2012 and will not be renewed," the Tentative Order seems to be suggesting this new program meets the needs previously met by the existing EDC plans.

The PPL Companies support a statewide program to deliver appropriate statewide messages and EDC programs to deliver messages tailored to each EDC's customers. The proposal outlined in the Tentative Order attempts to address this by noting, "Some messages may be targeted to specific EDC territories." Tentative Order at 38. The PPL Companies believe that having the Commission or its contractor alone attempt to craft EDC-specific messages may lead to ineffective messaging and administrative disagreements over whether one EDC's customers are subsidizing another EDC's customers. Accordingly, the PPL Companies believe a

better approach is to leave the delivery of EDC-specific messages as a responsibility of the EDCs and their service territory market participants with Commission oversight as necessary to ensure consistency with statewide themes.

The PPL Companies believe EGS participation and funding should be part of the statewide program and development of appropriate statewide messages. The PPL Companies agree that the focus of a statewide campaign should be on shopping and certain RMI-initiated actions not already otherwise addressed. The PPL Companies note that default service plans currently pending before the Commission include EDC-specific consumer education related to certain RMI-initiated matters including Standard Offer Referral Programs and Opt-In Programs. However, the sense of the Tentative Order is that, with Commission-approved 5-year consumer education programs expiring, this is the only education that is needed. To the contrary, the PPL Companies believe there are other educational messages that are not addressed by the Act 129 EE&C programs and would not be addressed by the proposed RMI-related statewide program. The PPL Companies recommend the Commission not take any action that would limit the ability of individual EDCs to request approval to undertake consumer education that may be valuable to their customer base. The existence of a DSP who is other than the EDC would, for example, create a unique consumer education need that would be separate from the statewide program and clearly not associated with energy efficiency and conservation.

**O. Regulatory Costs and Assessments**

The Tentative Order proposes to establish an annual EGS licensing fee of $1,000 (up from current one-time fee of $350). It further proposes that the Commission seek legislative changes necessary to permit EDCs to use an automatic surcharge mechanism to recover electric industry assessments paid to the Commission.

The PPL Companies are not opposed to an annual EGS fee that reasonably reflects the Commission's cost of reviewing reports, oversight of regulatory compliance, and bonding. The fee could also be used to fund consumer education activities, however it may also be appropriate to address this expanded purpose through legislative change. The PPL Companies agree the fee should be capped at an appropriate level. Finally, the PPL Companies note this approach does not address the issue of fees/assessments that should be charged to a DSP who is not an EDC or EGS. It may be appropriate for the Commission to propose how that circumstance would be addressed in the context of the legislative changes it will propose.

## 4. Conclusion

As stated above, the PPL Companies fully support the Commission's initiatives in this proceeding to create a default service model that will facilitate the continued development of a robust and successful competitive electricity market in Pennsylvania. The PPL Companies view the instant proposal, not as an end-state, but as the next logical step in an evolution that began (under the Competition Act) with default service provided only by the EDCs at capped rates; continued (under Act

129) with a somewhat market-reflective default service product that still shielded customers from the market; and now moves to a more market-reflective default service product that should allow the market to develop products and services that meet customer needs. In the foregoing comments, the PPL Companies support the vast majority of the Commission's proposals in the Tentative Order. The PPL Companies remain committed to development of competitive retail and wholesale markets and the work being performed by the Commission. However, the PPL Companies have raised some issues regarding several of those proposals, and they respectfully request that the Commission consider those issues as it develops a Final Order.