



Todd S. Stewart
(717) 236-1300 x242
tstewart@hmslegal.com

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

December 17, 2012

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

RE: Petition of PPL Electric Utilities Corporation for Approval Of a Default Service Program and Procurement Plan for the Period June 1, 2013 Through May 31, 2015: Docket No. P-2012-2302074; **REPLIES TO EXCEPTIONS OF DOMINION RETAIL, INC. AND INTERSTATE GAS SUPPLY, INC.**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the original Replies to Exceptions of Dominion Retail, Inc. and Interstate Gas Supply, Inc. in the above-captioned docket. Copies of the Reply Exceptions have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

Todd S. Stewart
*Counsel for Dominion Retail, Inc. and
Interstate Gas Supply, Inc.*

TSS/jld/152165.1

Enclosures

cc: Honorable Susan D Colwell (via email and first class mail)
OSA (via email – ra-OSA@pa.gov)
Per Certificate of Service

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA ELECTRONIC AND FIRST CLASS MAIL

James Mullins, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, PA 17101-1923

Steven C. Gray, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Regina L. Matz, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Michael W. Hassell, Esquire
Post & Schell PC
17 North Second Street
12th Floor
Harrisburg, PA 17101

Charles E. Thomas III, Esquire
Thomas Long Niesen & Kennard
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108

Eric J. Epstein
4100 Hillsdale Road
Harrisburg, PA 17112

Patrick M. Cicero, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Kenneth L. Mickens, Esquire
316 Yorkshire Drive
Harrisburg, PA 17111

Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406

Adeolu A. Bakare, Esquire
McNees Wallace and Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108

Daniel Clearfield, Esquire
Deanne M. O'Dell, Esquire
Eckert Seamans Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101

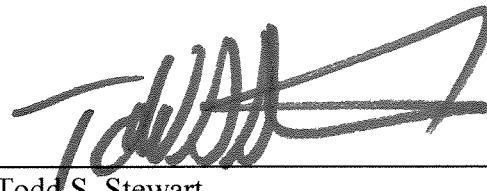
Brian J. Knipe, Esquire
Buchanan Ingersoll and Rooney PC
17 North Second Street, 15th Floor
Harrisburg, PA 17101

Amy M. Klodowski, Esquire
FirstEnergy Solutions Corporation
800 Cabin Hill Drive
Greensburg, PA 15601

Barbara R. Alexander
83 Wedgewood Drive
Winthrop, Maine 04364

Divesh Gupta, Esquire
Constellation Energy
111 Market Place, Suite 500
Baltimore, MD 21202

Paul Russell, Esquire
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101

A handwritten signature in black ink, appearing to read 'Todd S. Stewart', written over a horizontal line.

Todd S. Stewart
*Counsel for Dominion Retail, Inc. and
Interstate Gas Supply, Inc.*

Date: December 17, 2012

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PPL Electric Utilities Corporation :
for Approval Of a Default Service Program and : Docket No. P-2012-2302074
Procurement Plan for the Period June 1, 2013 :
Through May 31, 2015 :

**REPLIES TO EXCEPTIONS
OF DOMINION RETAIL, INC.
AND INTERSTATE GAS SUPPLY, INC.**

AND NOW, comes Dominion Retail, Inc. d/b/a Dominion Energy Solutions (“DES”) and Interstate Gas Supply, Inc. d/b/a IGS Energy (“IGS”) (collectively “the EGS Parties”) and offer the following Replies to the Exceptions of other parties in the above-captioned matter.

In general, the EGS Parties were satisfied with the broad conclusions of Presiding Administrative Law Judge Susan D. Colwell (“ALJ”) in her Recommended Decision (“RD”). The EGS Parties disagree vehemently, however, with ALJ’s rejection of PPL’s proposed cost recovery mechanisms. That disagreement was fully developed in the EGS Parties’ Exceptions that were filed on December 5, 2012. On that same date, several other parties also filed Exceptions to the RD, which had issued by the Pennsylvania Public Utility Commission (“Commission”) on November 15, 2012. The Parties to which the EGS Parties will respond include PPL Electric Utilities Corporation (“PPL”), the Pennsylvania Office of Consumer Advocate (“OCA”) and the Retail Energy Supply Association (“RESA”).

I. REPLIES TO PPL

Reply to PPL Exception No. 6

The Commission should implement an opt-in aggregation program (RD pp. 111-112; PPL Exceptions, p. 18).

In its sixth Exception to the ALJ's Recommended Decision, PPL objects to the ALJ having declined to endorse either an opt-in auction program or an opt-in aggregation program. PPL recognizes that in its Orders approving both First Energy and PECO's default service plans,¹ the Commission implemented aggregation programs in place of auctions, but nonetheless insists that it would be better for the Commission to implement the auction program for its service territory.

While the EGS Parties previously endorsed the auction concept, there are several factors that support aggregation as the better approach. Primary is the issue of cost. There is little dispute that an aggregation program will cost less to develop and administer. Regardless of who is asked to pay for the program, cost is important and may determine whether the program has any chance of success - particularly if suppliers are to be required to foot most or all of the bill.

Another important factor to consider, when considering the state as a whole, is uniformity. Uniformity will allow suppliers that have the ability to do so, to participate more easily statewide if they choose without having to confirm to vastly different program structures and participation requirements. Statewide participation also will allow suppliers to achieve the sort of scale that will allow for greater investment in the Commonwealth. Accordingly, the EGS Parties endorse the opt-in aggregation methodology as being the least expensive and most fair considering the circumstances.

¹ *Joint Petition of Metropolitan Edison Co., Pennsylvania Electric Co., Pennsylvania Power Co., and West Penn Power Co. for Approval of their Default Service Plans*, Docket Nos. P-2011-2273650, et seq., (Revised Order on Reconsideration, entered October 11, 2012)("FE Order"); *Petition of PECO Energy Company for Approval of its Default Service Program*, Docket No. P-2012-2283641 (Opinion and Order entered November 21, 2012)("PECO Order").

II. REPLIES TO RESA

Reply to RESA Exception No. 1

The ALJ correctly rejected RESA's proposed modification to the residential procurement plan (RD pp. 27-38; Order in p. 3a; RESA Exceptions pp. 4-7).

In its Exceptions, RESA takes issue with the ALJ's rejection of RESA's proposal to include a steadily increasing proportion of ninety (90) day full requirements contracts in PPL's residential procurement plan, so that at the conclusion of PPL's transitional default service plan, the majority of PPL's contracts would be ninety (90) day, full requirements procurements rather than longer procurements proposed by PPL. The EGS Parties understand RESA's desire to implement the Commission's recently proposed end state model, with its expectation of moving the entire state to a default service regimen that would exclusively consist of ninety (90) day procurements, on a perpetual basis. However, the EGS Parties strenuously disagree with that approach.

The EGS Parties do not support the notion that volatility for its own sake will convince customers to move from a reconciled default service price into the competitive market. Nonetheless, even if the ninety (90) day procurement scheme does prevail for the End State model, it is not necessary to phase-in to that End State in any sooner than otherwise would be required. That is, there is no need to begin the unnecessary injection of volatility into the Retail Electricity Market before June of 2015. This is particularly true in light of PPL's desire to maintain relative price stability during the period of the Retail Enhancement Programs, which will tend to make suppliers' job of making competitive offers to customers more effective.

Volatility for its own sake is not proven to cause residential customers to shop. Moreover, based upon the potential downside, *i.e.*, customer dissatisfaction with the pricing methodology, and experience in other states, such a scheme makes it just as likely that customers

will return to default service rather than shopping. Accordingly, the EGS Parties urge the Commission to reject the ninety (90) day procurement methodology that was proposed by RESA and rejected by the ALJ, and to instead adopt PPL's proposal.

III. REPLIES TO THE OCA

Reply to OCA Exception No. 2

The ALJ appropriately rejected the OCA's proposed twenty percent (20%) customer participation cap for the Retail Opt-in Program. (RD pp. 118-120; OCA Exceptions pp. 6-8).

In her Recommended Decision, the ALJ would limit customer participation in the Retail Opt-In Program to fifty percent (50%) of non-shopping customers. The OCA takes Exception with this conclusion and would instead have the Commission limit participation in that program to twenty percent (20%) of non-shopping customers. The rationale for the OCA's position is that to allow more than twenty percent (20%) of customer participation would increase the risk of the providing the wholesale supply for default service and, therefore, may result an increase in wholesale prices for default service. The OCA offers no factual support for its conclusion other than its opinion that this may occur.

The OCA's counter-productive approach has been rejected by the Commission in its prior two (2) Orders on this very same subject.² The Commission's rationale is simple, limiting customer participation to a mere twenty percent (20%) of non-shopping customers will not allow these programs to achieve the potential for voluntarily migrating a large number of customers into the competitive market, so as to provide the threshold critical mass necessary to allow for the competitive market to be the rule rather than the exception in Pennsylvania. The OCA's

² *Joint Petition of Metropolitan Edison Co., Pennsylvania Electric Co., Pennsylvania Power Co., and West Penn Power Co. for Approval of their Default Service Plans*, Docket Nos. P-2011-2273650, et seq., (Revised Order on Reconsideration, entered October 11, 2012)("FE Order"); *Petition of PECO Energy Company for Approval of its Default Service Program*, Docket No. P-2012-2283641 (Opinion and Order entered November 21, 2012)("PECO Order").

approach would seek to enshrine default service as the primary means by which customers would receive electricity supply. Accordingly, the OCA's approach should be rejected in favor of the fifty percent (50%) cap.

Reply to OCA Exception No. 3

The OCA's demand that all savings be "guaranteed" to customers must be rejected. (RD at pp. 122-123; OCA Exceptions pp. 9-10).

The RD adopts PPL's proposed six (6) month opt-in program with a discount at five percent (5%) off the December 1, 2013 Price to Compare ("PTC"). While the EGS Parties have Excepted to the requirement for a six (6) month program, they have, nonetheless, supported the notion that the price be five percent (5%) off the PTC at the time the offer is made -- and have rejected to notion that the price be guaranteed for the entire period of the opt-in program.

Guaranteed savings products substantially increase the risk to suppliers, because they would be forced to adjust their product to match (at a discount) a PTC that is reconciled, which by definition is not a market based product. In a program where there can be no cancellation fees and where suppliers are required to provide a fifty (\$50.00) bonus after the first three (3) months of the program, the downside risk is likely to be too much for most suppliers to willingly accept. Simply put, adding the risk of managing mid-term PTC changes, and a requirement to adjust prices to reflect those changes to the list of risks and costs for suppliers only lessens the likelihood of participation by significant or substantial number of suppliers and, thus, increases the likelihood of program failure.

While the EGS Parties are sensitive to the OCAs desire that customers have a positive experience in the opt-in program, the one (1) year fixed-price products that would be provided under the EGSs version of PPL's plan, are common in the industry and customers appear to be willing to participate in such offers as a means of ensuring a stable price, that is also a fair price,

for a significant period of time. Whether that price provides the customer with savings over the entire period, in relation to the PTC, is not the sole determinant of whether the price is fair. That is, even if the price were to exceed the PTC for some portion of that one (1) year period, that alone would not negate the value of the one (1) year fixed-price product for the customer. The OCAs insistence that the product provide the customer with guaranteed savings every day of the program simply does not reflect market reality and cannot be adopted reasonably here. Accordingly, the EGS Parties urge rejection of the OCA's position in adoption of the Commission's heretofore standard of discounts being provided as of the date of enrollment.

Reply to OCA Exception No. 4

The ALJ appropriately rejected the OCAs insistence on a third notice at the end of the opt-in program (RD at pp. 125-127; OCA Exceptions pp. 10-11).

The OCA's witness insisted that three (3) notices be provided to customers at the expiration of the opt-in program. The OCA's belief is that without this third notice, customers will be left adrift without any understanding of the program and will potentially remain in a contract, at the end of the program, that would not be beneficial to them. What the OCA fails to acknowledge in its argument, however, is the fact that other shopping customers, those in the market today, already are provided with two (2) notices at the end of a fixed-price contract, or if the price/terms and conditions are proposed to change. The OCA offers no evidence that the customers in today's market place are harmed by the current two notice rule, or that they are unable to understand the information in those two notices, or to act in their own best interest. Rather, the OCA simply continues its paternalistic approach, by insisting that a third notice provided by the utility, telling them that their contract is coming to an end, is necessary for customers to be fully informed.

The OCA's "three-notice" approach is as just as likely to confuse customers as it is to benefit them. This third notice could result in the customers prematurely terminating their contracts with suppliers, for no reason other than that they received a notice from the utility suggesting that their contract was ending. Injecting the utility into this role is unnecessary and unwise for the future health of a competitive market. Simply put, there is no basis upon which to modify the current requirement for customers who voluntarily participate in these programs. There is no basis, either in fact or sound policy to support the OCA's position and it should be rejected soundly.

Replies to OCA Exceptions Nos. 6 and 10

The ALJ correctly adopted PPL's cost recovery mechanism for the opt-in and erroneously rejected the company's proposal to recover the capital costs of the opt-in program from suppliers (RD at pp. 147-154; OCA Exceptions pp. 12-19).

In its Exception No. 6, the OCA decries the ALJ's having approved a mechanism that would have customers be the "backstop" for pre-auction costs not recovered from suppliers if no suppliers participate in the opt-in program. And in its Exception No. 10, the OCA supports the ALJ's rejection of PPL's proposal to recover the capital costs associated with the referral program from customers through a future base rate case and to recover only the ongoing operating costs of that program from participating suppliers.

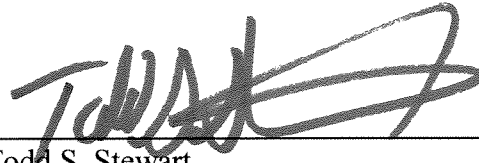
The EGS Parties believe that it is appropriate that customers be asked to share these costs in both cases, and support PPL's proposal as the correct approach. That is, if no suppliers participate in the opt-in program, it is entirely appropriate that any costs be borne by customers. It would not be fair to impose those costs upon non-participating suppliers, simply for being in the PPL market. Likewise, with regard to the referral program, rejection of PPL's plan ignores the reality that the types of system improvements that PPL has proposed to make would be considered capital costs in any other environment, and should be recovered from customers.

Accordingly, the EGS Parties urge rejection of ALJ's conclusion that the suppliers should bear all the costs of the referral program, including capital costs, and support ALJ's conclusion that the pre-auction costs should be borne by customers if no suppliers participate in the opt-in.

IV. CONCLUSION

The EGS Parties respectfully submit these Replies to Exceptions of other parties and urge the Commission to refine the ALJ's Recommended Decision to make it consistent with the Exceptions the EGS Parties already filed, and these Replies.

Respectfully submitted,



Todd S. Stewart
Attorney I.D. No. 75556
Hawke McKeon & Sniscak LLP
P.O. Box 1778
100 N. Tenth Street
Harrisburg, PA 17105-1778
(717) 236-1300
(717) 236-4841 (fax)
tsstewart@hmslegal.com

*Counsel for Dominion Retail, Inc. and Interstate
Gas Supply, Inc.*

DATED: December 17, 2012