

LAW OFFICES  
RYAN, RUSSELL, OGDEN & SELTZER LLP

W. EDWIN OGDEN  
ALAN MICHAEL SELTZER  
TERRANCE J. FITZPATRICK  
JEFFREY A. FRANKLIN  
JOHN F. POVILAITIS  
JANET E. ARNOLD  
DAVID M. DESALLE

1100 BERKSHIRE BOULEVARD  
SUITE 301  
READING, PENNSYLVANIA 19610-1221

TELEPHONE: (610) 372-4761  
FACSIMILE: (610) 372-4177  
WEB SITE: RYANRUSSELL.COM

SAMUEL B. RUSSELL (RETIRED)  
HAROLD J. RYAN (1972)  
JOHN S. MCCONAGHY (1981)

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FOLDER

December 1, 1998

HARRISBURG OFFICE  
800 NORTH THIRD STREET  
SUITE 101  
HARRISBURG, PENNSYLVANIA  
17102-2025  
TELEPHONE: (717) 236-7714  
FACSIMILE: (717) 236-7816

VIA UPS OVERNIGHT

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DEC 01 1998

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building  
Room B-20  
Commonwealth Avenue and North Street  
Harrisburg, Pennsylvania 17120

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: PECO Joint Petition For Full Settlement, Competitive Provider of  
Last Resort, Paragraph 38, Docket Nos. R-00973953 and P-00971265

Dear Mr. McNulty:

Enclosed herewith are an original and fifteen (15) copies of written comments on behalf of GPU Energy in the above-referenced proceeding.

Copies of these comments are being served this date upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, PECO Energy and the other Pennsylvania electric distribution companies in accordance with the enclosed Certificate of Service.

We would request consideration of GPU Energy's comments in this matter.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Alan Michael Seltzer

AMS:emk  
Enclosures

cc: As per Certificate of Service

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: PECO Joint Petition for Settlement :  
Competitive Provider of Last Resort : Docket Nos. R-00973953 and  
Paragraph 38 : P-00971265

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Comments of Metropolitan Edison Company and Pennsylvania Electric Company To Tentative Order upon the individuals listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant).

Service by UPS Overnight, addressed as follows:

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building  
North Street and Commonwealth Avenue  
Harrisburg, PA 17120

Office of Consumer Advocate  
555 Walnut Street  
Focum Building 5<sup>th</sup> Floor  
Harrisburg, PA 17101

Office of Trial Staff  
901 North 7<sup>th</sup> Street  
Harrisburg, PA 17102

PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19101

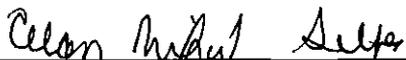
Dusquesne Light Company  
301 Grant Street  
Pittsburgh, PA 15279

West Penn Power Company  
800 Cabin Hill Drive  
Greensburg, PA 15601

Penn Power Company  
1 East Washington Street  
New Castle, PA 16103-0891

Pennsylvania Power & Light  
Two North 9<sup>th</sup> Street  
Allentown, PA 18101

Dated: December 1, 1998

  
Alan Michael Seltzer, Esquire  
RYAN, RUSSELL OGDEN & SELTZER LLP  
1100 Berkshire Boulevard, Suite 301  
Reading, Pennsylvania 19610-1221  
(610) 372-4761

Attorneys for  
Metropolitan Edison Company and  
Pennsylvania Electric Company

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DEC 01 1998

Re: PECO Joint Petition for Settlement :  
Competitive Provider of Last Resort : Docket Nos. R-00973953 and PA PUBLIC UTILITY COMMISSION  
Paragraph 38 : P-00971265 SECRETARY'S BUREAU

**COMMENTS OF METROPOLITAN EDISON COMPANY AND  
PENNSYLVANIA ELECTRIC COMPANY TO TENTATIVE ORDER**

Metropolitan Edison Company and Pennsylvania Electric Company,  
collectively doing business in Pennsylvania as GPU Energy ("GPU Energy" or,  
collectively, the "Company"), by and through their attorneys, Alan Michael Seltzer and  
RYAN, RUSSELL, OGDEN & SELTZER LLP, hereby file the following comments to  
the Commission's Tentative Order entered in the above matter on October 20, 1998  
("Tentative Order").

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**I. Introduction**

The Tentative Order continues the Commission's efforts to implement its  
earlier approval of a Joint Petition for Full Settlement ("Joint Petition") of the PECO  
Energy ("PECO") restructuring plan and related appeals. Under paragraph 38 of the Joint  
Petition, PECO Energy and the other parties in that proceeding established the terms and  
conditions under which Provider of Last Resort ("PLR") service would be offered to  
retail electric customers in PECO's franchise service territory. The Joint Petition  
specifically required the Commission to establish the "final standards for PECO  
governing the responsibilities and obligations of the competitively determined provider of  
last resort in PECO's service territory." (Joint Petition, ¶ 38(d)).

As an existing electric distribution company ("EDC") in Pennsylvania that  
recently entered into a Joint Petition for Settlement addressing, among other things, PLR

service, GPU Energy has a profound interest in the PLR rules and regulations that ultimately emerge from this proceeding.

The establishment of uniform standards for all aspects of PLR service in Pennsylvania is not in the public interest. It is imperative that the rules established for the provisions of PLR in PECO's service territory apply solely to PECO, and not be considered as a template for the provision of PLR in other EDC's territories. The Commission has repeatedly acknowledged that serious operational differences between EDC's exist, and that these significant differences render many issues unamenable to generic consideration. See, for example:

Reporting Requirements for Quality of Service Benchmarks and Standards  
(Docket No. L-00970131, Order entered May 21, 1998).

Creation and Implementation of a Statewide Consumer Education Program for Electric Restructuring in the Commonwealth of Pennsylvania  
(Docket No. M-00981036, Opinion and Order entered January 16, 1998).

Final Order re: Guidelines for Universal Service and Energy Conservation Programs Made Pursuant to 66 Pa. C.S. §§ 2803, 2802 (A), 2804(8) and 2804(9), (Docket No. M-00960890F0010, Order entered July 11, 1997).

The Commission's reasoning in these Orders is sound. In many crucial operational areas, there are substantial differences between EDCs, such that a generic approach is neither wise nor appropriate. There are at least four reasons why the establishment of uniform PLR Standards many not be in the public interest.

First, not all EDCs will continue to own or control their own electric generating facilities. Unlike PECO and PP&L, who have elected to retain their generating resources as part of their core business, GPU Energy is in the process of selling its

generating assets and concentrating primarily on transmission and distribution services. As an entity that envisions itself as a delivery service business, GPU Energy desires to ensure that the market can sustain several competent suppliers of PLR service to meet customers' continuing needs for generation service. Second, the terms and conditions of PLR service that have been reflected in Commission-approved settlements of the various EDC restructuring cases may lead to differences in the delivery and implementation of these services. While there are some similarities between PECO and the GPU Energy settlements with respect to PLR service, there are also some substantial differences. Third, GPU Energy's employees implementing various aspects of PLR service are unionized, while PECO employees are not. The existence of a unionized workforce raises a whole host of implementation and contractual issues (such as meter reading, billing, etc) that PECO will not be required to face in its implementation of PLR service. Finally, PLR rules will need to be superimposed upon existing metering, billing, computer and other administrative regimes that are different among Pennsylvania's EDCs. Indeed, as the Commission is well aware, GPU Energy's computer systems will be unable to accommodate competitive billing until January 1, 2000, whereas the recent audit of PP&L's computer system concluded that it can accommodate competitive billing functions in June 1999. Such operational differences can have a material impact upon the implementation of numerous aspects of PLR service. The Commission must remain vigilant of these differences to avoid burdening EDCs other than PECO with PLR rules driven by PECO's unique circumstances.

Neither GPU Energy nor other EDCs should be saddled with PLR standards established under PECO's settlement that are neither applicable to these other

EDCs nor consistent with the terms of previously approved Commission settlements. For example, while PECO's PLR service is limited to residential customers, GPU Energy's counterpart, which commences a full six months **before** PECO, applies to all customer classes. This significant difference between GPU Energy and PECO not only affects potential implementation rules and programs, but the precedential effect of any final order that may be entered in this proceeding.

This Commission must not set unreasonable, unworkable or inconsistent PLR standards in its implementation of paragraph 38 of the Joint Petition. This is especially true given the limited time for responding to the Tentative Order and the substantial work still to be completed on many of the issues underlying PLR service.

## **II. Limited Time to Respond**

GPU Energy has not had sufficient time to fully prepare comprehensive comments to the proposed PECO Energy rules for Competitive Default Service ("CDS"). Having just emerged from its own restructuring cases, the Company has not been an active participant in the PECO settlement process, particularly with respect to PLR service, and is not privy to many of the specific issues relating to PECO's PLR service. Moreover, due to the short time frame between the entry of the Tentative Order and the due date for comments, it has not been possible to fully understand and explore all of the details behind Annex A to the Tentative Order.

The Commission should avoid acting precipitously in fashioning PLR rules for PECO, particularly since retail PLR service under the PECO settlement is not scheduled to commence until January 1, 2001. While the Joint Petition in the PECO proceeding establishes January 1, 1999 as the date for the Commission's issuance of final

standards governing PECO's PLR service, careful consideration should be given to whether this is a reasonable or meaningful deadline at this point in the implementation of generation competition in Pennsylvania. Hasty and ill-conceived rules for PLR service is not in anyone's interest.

Relevant to this timing issue is the fact that GPU Energy's settlement on PLR service, which is applicable to all of the Company's customers, is scheduled to commence on June 1, 2000 – six months prior to the scheduled implementation date for PECO. Under the terms of the GPU Energy settlement, the Company will develop all rules for the provision of CDS service within GPU Energy's service territory in a collaborative effort with all Joint Petitioners to the GPU Energy settlement. This collaborative process will address a myriad of critical implementational issues, including technological fitness and compliance with EDEWG standards, provision and implementation of competitive metering and billing, the establishment and application of metering and billing credits with a CDS, the provision and tracking of Universal Service benefits, and customer switching between EGSs and multiple CDS providers. On all of these issues, implementation of CDS will involve complexities unique to GPU Energy and its Joint Petitioners that must be addressed through the collaborative process in order to insure successful implementation.

GPU Energy expects to convene this collaborative process shortly after the start of competition on January 1, 1999. Pending the completion of that collaborative process, the Commission should not take any action in this proceeding with respect to PLR service that could be deemed to apply to GPU Energy without its consent. The Joint Petition specifically provides that none of the terms of the PECO settlement shall

constitute or be cited as controlling precedent in any other proceedings. (Joint Petition at p. 46). This spirit of the settlement should apply equally to the PLR rules sought to be established here.

## **II. Uniform Standards for Pre-Qualification of PLR Suppliers**

Having just cautioned the Commission to proceed carefully in establishing uniform PLR standards in advance of GPU Energy's collaborative process, it is necessary to add that certain matters may be ripe for resolution on a state-wide basis in this proceeding. The most obvious example of such an issue is the method and basis for pre-qualification of CDS bidders. These issues are addressed in paragraphs PQ1 – 9 of Annex A to the Tentative Order.

Aside from the specific date for the submission of pre-qualification information, which is different for PECO and GPU Energy, the Commission should establish uniform rules governing the pre-qualification of CDS bidders in Pennsylvania.

A threshold question in setting uniform pre-qualification standards for PLR service is whether the Commission or EDCs should be responsible for receiving pre-qualification packages and attesting to the pre-qualification of prospective CDS bidders. Assuming the paradigm reflected in Annex A prevails, and the Commission requires the submission of pre-qualification materials to it for its review and consideration, GPU Energy suggests that the following information should be submitted as part of the pre-qualification package:

1. A copy of the EGS's license to operate as an electric generation supplier in the Commonwealth of Pennsylvania;

2. A copy of the applicable FERC certification as a power marketer in the United States;

3. A non-binding and preliminary description of each CDS bidder's generation portfolio;

4. A non-binding and preliminary description of each CDS bidder's renewable resources and plans for ensuring that any renewable conditions of any applicable settlements are satisfied;

5. Written evidence of each CDS bidder's membership in good standing in PJM, the Mid-Atlantic Area Council and all other applicable reliability councils;

6. Sufficient written evidence (as specified below) demonstrating each CDS bidder's financial ability and creditworthiness to support the continuous, safe and reliable provision of CDS service in Pennsylvania;

7. Sufficient evidence that each CDS bidder has the capability and intention to comply with all applicable EDC supplier tariffs, electronic data interchange protocols, etc.

The provisions set forth currently in PQ2 and PQ3 (and which have been partially re-written above) should be combined in a single comprehensive list of data and information that must be submitted by each CDS supplier seeking to pre-qualify. As a matter of drafting, the Commission should include provisions in the rules that are either mandatory or permissive, and avoid language (as currently found in PQ3) that reflects the Commission's "hopes" or "expectations".

Sections PQ4 through PQ9 are generally satisfactory for pre-qualification purposes, but all mandatory provisions should use the word "shall" rather than "must".

Perhaps the most significant component of the pre-qualification process for CDS is the financial integrity and creditworthiness of the prospective bidder. While Section PQ2 (c) requires a "credit worthiness report", there are no objective standards upon which the CDS supplier can submit data and the Commission can evaluate it. This omission in Annex A is fatal since the ability to arrange for and supply electric generation to PLR customers is the fundamental feature of this process. There will be substantial financial risk associated with arranging for the wholesale supply and subsequent resale of electric generation to retail customers – from both the CDS's and EDC's perspective. If a CDS is unable to perform its generation supply function to PLR customers, all PJM members may be required to make up this imbalance (i.e., non-delivery) and non-payment at a potentially significant cost. Under these circumstances, the Commission, EGSs and applicable EDCs each have an interest in assuring that all "qualified" CDS bidders have the requisite financial resources to fulfill their contractual and financial commitments to CDS customers. Leaving the details of creditworthiness to a later date and without clearly defined standards is unfair to all the concerned parties – this Commission, EDCs, EGSs and prospective CDS suppliers.

In recognition of the enormous cost of non-performance in the provision of PLR service, GPU Energy has been actively involved in PJM's efforts to review and update pool-wide creditworthiness standards that will apply to the PLR auction required by the GPU Energy Joint Petition for Settlement. The Company encourages the Commission to establish uniform PLR rules requiring prospective CDS bidders to adhere

to all creditworthiness standards established by the applicable power pool in which the CDS supplier will be serving customers. At the very least, each CDS supplier, as a pre-qualification for CDS, should be required to confirm that it meets or exceeds PJM's (other applicable power pool's) creditworthiness standards for the full amount of the CDS's load obligations.

The Commission should also consider addressing the financial impacts of a winning CDS supplier failing to provide generation service to CDS customers for the full term of its commitment. Under these circumstances, an EDC could be required to provide substantial electric generation to customers it had not planned on serving and for whom no prior electric supply was procured. The costs of providing electric supply to customers the EDC was no longer serving could be substantial. There are many ways to address this situation, including the CDS supplier providing additional financial assurances to the local EDC, special rate treatment for the cost of this type of service, etc. GPU Energy expects to explore these issues in its PLR collaborative process and urges the Commission to take no action in this proceeding that would preclude this matter from being fully addressed by GPU Energy.

### **III. Gaming Must Be Prohibited**

Neither the Tentative Order nor Annex A thereto addresses an important issue for GPU Energy: customer gaming. Any final rules applicable to PLR/CDS must recognize and address the possibility that certain customers will abuse the system by seeking to move among the several generation suppliers (e.g., EDC, EGS and CDS) at different times of the year when it is in the customer's economic interest to do so. This frequent movement is a manipulation or "gaming" of the system which could result in

substantial economic loss to any default generation supplier that is required to supply such a customer at the high cost (i.e., peak) periods of the year, only to find that the customer has left the default supplier's system at the lower cost (and higher profit) periods. GPU Energy expects to address the gaming of PLR/CDS in the collaborative process under its Joint Petition for Settlement, and requests that the Commission refrain from taking action in this PECO proceeding that limits GPU Energy's ability to do so.

#### **IV. Rules for Customer Switching Are Essential**

Related to the "gaming" issue described above is the need for PLR/CDS to address the terms and conditions of customer transfers from the EDC to the CDS supplier. The rules and procedures that have been established to protect customers when transferring from the EDC to an EGS, or from one EGS to another,<sup>1</sup> should be reviewed for their applicability to transfers from the EDC to the CDS, or from one CDS to another. Once again, this matter will be addressed in GPU Energy's collaborative process for PLR/CDS, and nothing in this proceeding should be deemed to limit GPU Energy's right to explore and propose a definitive approach to customer switching in the context of its broad PLR commitments.

#### **V. PLR Tariff**

GPU Energy has been considering the use of a PLR/CDS tariff to address the unique and numerous issues associated with this service and the specific terms of its Joint Petition for Settlement. The Commission should not use this PECO proceeding as a basis for precluding GPU Energy from exploring the feasibility of such an approach in its own restructuring settlement.

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<sup>1</sup> Rulemaking Order Establishing Standards for Changing a Customer's Electric Supplier (Docket No. L-00970121, Revised Final Rulemaking Order Entered July 7, 1998).

## **VI. Customer Service Issues**

There are a number of critical customer service issues that must be addressed and resolved as part of the implementation of effective PLR rules. These issues are likely to be unique to the various EDCs and may not be susceptible to uniform treatment. Matters such as metering, billing, customer call center activities (e.g., who is responsible for receiving and addressing outage call, etc), conditions under which CDS service defaults to the EDC customer, Universal Service, service termination and the application of revenue cycle credits will need to be resolved on an individual EDC basis due to the inherent differences among the EDCs and the different treatment of these issues in the various restructuring settlements. Nothing in this proceeding involving PECO should be deemed to preclude GPU Energy from addressing and resolving these issues in its PLR collaborative process.

## **VII. Code of Conduct**

GPU Energy intends to explore the appropriate Code of Conduct applicable to CDS suppliers in its PLR/CDS collaborate process. The Commission should not take any action in this PECO proceeding that would inhibit GPU Energy's efforts.

## **VIII. Miscellaneous Comments**

As explained above, GPU Energy is not in a position to provide detailed comments on all aspects of Annex A, due to the limited time available for review and the lack of direct participation in the PECO proceeding on these issues. However, the Commission should address the following:

1. What is the definition of the term "non-affiliated" in Section S6? Does the term refer to a "non-affiliate" of PECO or that the consortium of EGSs cannot be affiliates of each other?

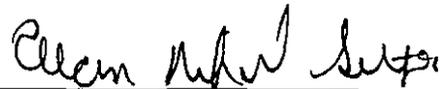
2. Does Section S7 imply that there can only be one winning bidder for PECO's CDS? GPU Energy would like to preserve the option for multiple winners, particularly because of the greater scope and depth of PLR/CDS called for in its Joint Petition for Settlement. The Commission should not take any action in this proceeding that is inconsistent with GPU Energy's ability to explore and/or develop this approach in its collaborative process.

3. The Commission should consider requiring each CDS to be bound to the rules, orders and regulations referenced in Section T5 in its own right and not "as if it is an EDC".

**IX. Conclusion**

While some uniformity may be desirable, the terms and conditions of PLR/CDS are in many respects unique to the several jurisdictional EDCs. The Commission should not use the purely fortuitous circumstance of PECO being the first EDC to address PLR/CDS to hamstring other EDCs with rules that do not work for them or are inconsistent with their own separately negotiated and Commission-approved restructuring settlements.

Respectfully submitted,



Alan Michael Seltzer  
Ryan Russell Ogden & Seltzer LLP  
1100 Berkshire Boulevard  
Suite 301  
Reading, PA 19610  
(610) 372-4761

Attorneys for GPU Energy

Dated: December 1, 1998

LEGAL SERVICES



800 Cabin Hill Drive  
Greensburg, PA 15601-1689  
Phone: (724) 837-3000  
FAX: (724) 838-6177

Writer's Direct Dial No. (724) 838-6210

E-mail: [jmunsch@alleghenypower.com](mailto:jmunsch@alleghenypower.com)

December 1, 1998

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Via Federal Express

Mr. James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B20  
Harrisburg, PA 17105-3265

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PA PUBLIC UTILITY COMMISSION  
PROTHONOTARY'S OFFICE

**RE: PECO Joint Petition for Full Settlement  
Competitive Provider of Last Resort  
Docket Nos. R-00973953 and P-00971265**

Dear Secretary McNulty:

Enclosed please find an original and fifteen copies of Comments of Allegheny Power with respect to the above-captioned matter.

This filing is made by Federal Express so that the filing date is deemed to be today.

Respectfully submitted,

  
John L. Munsch

c: Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**RE: PECO Joint Petition for full Settlement : Docket Nos.  
Competitive Provider of Last Resort : R-00973953 and P-00971265**

**CERTIFICATE OF SERVICE**

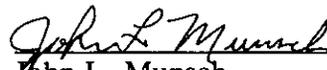
I hereby certify that this 1<sup>st</sup> day of December, 1998 I served a copy of the Comments of Allegheny Power by first-class mail upon:

Irwin A. Popowsky  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Bernard A. Ryan, Jr.  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Bureau of CEEP  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

David O. Epple  
Pennsylvania Electric Association  
301 APC Building  
800 North Third Street  
Harrisburg, PA 17102

  
\_\_\_\_\_  
John L. Munsch

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**DOCKETED**

DEC 03 1998

RE: PECO Joint Petition for Full Settlement: Docket Nos.  
Competitive Provider of Last Resort : R-00973953 and P-00971265

COMMENTS OF ALLEGHENY POWER

West Penn Power Company, d/b/a Allegheny Power (hereinafter "Allegheny Power"), submits Comments as follow in the above-captioned proceeding about Competitive Default Supply (CDS):

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General

Allegheny Power asserts that this proceeding is specific to PECO and its respective settlement. Because of the differences in individual company settlements, CDS issues should be addressed for each company within the context of single company proceedings. The results of PECO's proceeding should not be generically applied to other Pennsylvania companies.

The complexity of issues surrounding the pre-qualification of CDS bidders, such as termination of service by the CDS under Chapter 56, determination of the customer care functions assumed by the CDS, and other issues, suggest that the matter should be addressed through a generic rulemaking process. Because competitive default supply is not required until January 1, 2001 and given the current focus on the 1999 phase-in of two-thirds

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of Pennsylvania's customers, the Commission should order a generic proceeding to begin no earlier than March 1999.

### **Chapter 56**

The CDS should be permitted to order disconnection of customers for non-payment, according to the procedures in Chapter 56. The PLR, in this case, should not be required to provide default generation service. Because revenues for collection activities, portable with these customers, have been paid to the CDS for these services, a CDS customer should not be permitted to return to PLR service to avoid disconnection. A CDS customer should only be able to return to PLR service from the CDS when the customer's electric service account with the CDS is current. In any event, the EDC shall be indemnified by the CDS when disconnecting service on behalf of the CDS.

### **Market Price and Rate Cap**

Customers are required to take electric service for a minimum period of one year under Allegheny Power's industrial and large commercial rate schedules. These rate schedules require both a minimum initial term and advance notice of termination. The unprecedented volatility in the 1998 summer electricity markets illustrates the extraordinary risk to the EDC if commercial and industrial customers can return to PLR service during high-cost periods with only fifteen (15) days' notice. Present on-peak market prices for July and August 1999 are approximately \$135/MWh (CINERGY), which is well above the shopping credits. The seasonal price differentials undoubtedly foster a propensity to "game" the system by taking advantage of lower market prices, when available, and returning to PLR or CDS service when market prices exceed the shopping credit. The PLR and the CDS should be protected

against these risks, especially when customers or EGSs misuse default service to advantage themselves in the marketplace.

### **Selection Criteria of CDS Providers**

Allegheny Power agrees that stringent, pre-qualification criteria, as included in Annex A in the PECO proceeding, are required to maintain present reliability and service levels. In its role as CDS, the EGS must be required to demonstrate financial integrity and ability to deliver reliable generation supply. Further, the CDS must evidence its ability to provide the required customer protection functions.

To assure the continuation of the historical levels of reliability, the integrity of the CDS should be monitored during its tenure. In addition to the pre-qualification requirements, the CDS should be required to file periodic financial statements and generation information to assure solvency and reliability during its obligation as CDS.

The obligations of a CDS are much greater than those of an EGS. The CDS must assume the role of the EDC for certain customer care functions. This may require additional staffing and the purchase of additional systems. A long-term commitment by the CDS should be conducive to the recovery of these additional expenses and generally promote the stability of default service. Allegheny Power recommends that CDS service be awarded for a minimum of two years.

### **Role of the CDS**

Allegheny Power is concerned that most customers will have difficulty understanding the difference between an EGS and a CDS. The CDS, in its notification packet, should be required to provide literature that adequately describes CDS service, PLR service and the customers options.

In the event the CDS defaults or is otherwise unable to furnish any or all generation service, the CDS should be financially liable for replacement power and shall be subject to review and sanction by the Commission. Further, the EDC should be granted recovery of any uncollectable, extraordinary expenses arising from CDS default or failure to supply.

The customer care functions provided by the CDS should not be optional or by election. The Commission should delineate the customer service functions provided by the CDS. These functions should include billing, collections, complaint investigation, dispute resolution and EGS selection. The CDS must fully assume the role of the EDC in these functions. On the other hand, the CDS should not be the point of contact for wires-related services, including line extensions, service upgrades, relocation of service, customer-requested work, service complaints and trouble calls.

### **Renewable Resource Base**

Renewable resources, as defined in paragraph 38(b), include solar, wind, sustainable biomass (landfill gas), geothermal and ocean power. The paragraph 38 definition, intentionally or otherwise, appears to limit the definition included in Section 2803 of the Electricity Generation Customer Choice and Competition Act (66 P. C.S. § 2803), which reads:

*"Renewable resource." Includes technologies such as solar photovoltaic energy, solar thermal energy, wind power, low head hydro power, geothermal energy, landfill and minebased methane gas, energy from waste and sustainable biomass energy.*

Because such resources are presently available on a limited basis, the CDS should only be required to meet these criteria to the extent that capacity and energy from such projects are available in the marketplace, so as not to limit bidders to those who own such resources.

**Code of Conduct Reciprocity**

EDCs have historically protected the confidentiality of customer account information. The CDS must be required to treat such customer account information in the same regard.

The CDS should also be required to abide by codes of conduct governing PLR service, now or in the future. Likewise, any CDS code of conduct shall prohibit the use, sharing or sale of customer information obtained through CDS to an affiliate or non-affiliate. Codes of conduct for the CDS may require the inclusion of some additional protections as the same corporate entity may be both an EGS and a CDS.

ALLEGHENY POWER  
December 1, 1998