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November 19, 1998

CELLNET
DATA SERVICES, INC.

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

✓Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

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Dear Sir or Madam,

Please find enclosed CellNet's comments on the above-captioned matter.

Thank you,


Chris King
Vice President

cc: John C. Miller, Jr. P.E. Bureau of Conservation, Economics and Energy Planning
(717) 783-1546

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PUBLIC UTILITY COMMISSION

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Re PECO Joint Petition For Full Settlement)
Competitive Provider of Last Resort)
Paragraph 38)

Docket Nos. R-00973953
and P-00971265

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COMMENTS OF CELLNET DATA SYSTEMS, INC.

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CellNet Data Systems, Inc. ("CellNet") respectfully submits the following comments in response to the Commission's Tentative Order in the above-captioned item ("Order").

CellNet provides advanced metering and communications technology (network meter reading and related services) to electric utilities and energy service providers in deregulated states, including California. CellNet's interest in this proceeding is as a potential provider of metering services in Pennsylvania's deregulated electricity market to either a utility or competitive provider of last resort or both.

CellNet takes no position regarding the issues addressed in the Order. Instead, our interest is in having clearly understandable rules for the market. In this regard, we urge the Commission to clarify the role of Competitive Default Service ("CDS"), which CellNet believes will help clarify the means by which CDS will be implemented. The issue arises in the original terms of the Settlement Agreement (cited at page 3 of the Order), which states that "20% of all of PECO's residential customers – determined by random selection... without regard to whether such customers are obtaining generation service from an EGS – shall be assigned to a provider of last resort-default supplier... that will be selected on the basis of a Commission-approved energy and capacity market price bidding process. This service shall be referred to as [CDS]."

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In other deregulated states, the provider of last resort-default provider is commonly understood to be the generation provider for those customers unable, unwilling, or undesiring to choose a new energy supplier (EGS). Given this commonly understood context, it is unclear what the Settlement and Order language means when it says customers of an EGS "shall be assigned" to the provider of last resort-default provider. Why would an EGS's customer be "assigned" to another generation supplier. One possible interpretation is that the CDS is the provider of last resort-default provider for certain EGS customers in the event their EGS leaves the market or otherwise stops providing service to those particular EGS customers. However, the language in the Settlement and Order is not clear on this point. In another example, the Order's draft Terms and Conditions of Service T2 (at 15) states that "The CDS provider will be responsible for notification of customers of their selection in the random lottery..." It is unclear why the CDS provider would notify the customer prior to that customer having a need for service from the CDS. In addition, T2 calls for the opportunity for CDS customers to "return to PECO default provider of last resort." Is the provider of last resort the CDS, PECO, or the customer's choice? The Commission is respectfully urged to clarify the roles and responsibilities of PECO as default provider of last resort and the CDS as provider of last resort-default provider. Such clarification would greatly assist in clarifying the rules themselves.

Respectfully submitted,



Chris S. King
Vice President
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Date: November 18, 1998



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November 19, 1998

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Re: Application of PECO Energy Company for
Approval of its Restructuring Plan Under
Section 2806 of the Public Utility Code
Docket No. R-00973953

Dear Secretary McNulty:

Enclosed please find for filing an original and two copies of the Notice of
Withdrawal of Appearance of Steven K. Steinmetz in the above-captioned proceedings.

Copies have been served upon all parties of record as shown on the attached
Certificate of Service.

Sincerely,

Steven K. Steinmetz
Assistant Consumer Advocate

Enclosures

cc: All parties of record
Hon. Marlane R. Chestnut
Hon. Charles E. Rainey, Jr.

EEF

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF PECO ENERGY :
COMPANY FOR APPROVAL OF ITS :
RESTRUCTURING PLAN UNDER SECTION : Docket No. R-00973953
2806 OF THE PUBLIC UTILITY CODE :

WITHDRAWAL OF APPEARANCE

Please withdraw my appearance on behalf of the Office of Consumer Advocate in the above-designated matter. Assistant Consumer Advocate Tanya J. McCloskey will continue to represent the office in the above captioned matter. Accordingly, please address all future correspondence to her attention.

Respectfully submitted,



Steven K. Steinmetz
Assistant Consumer Advocate

For:
Irwin A. Popowsky
Consumer Advocate

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DATED: November 19, 1998

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CERTIFICATE OF SERVICE

Re: Application of PECO Energy Company for
Approval of its Restructuring Plan Under
Section 2806 of the Public Utility Code
Docket No. R-00973953

I hereby certify that I have this day served a true copy of the foregoing document, Notice of Withdrawal of Appearance of Steven K. Steinmetz, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 19th day of November, 1998.

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

Dear Secretary McNulty:

Enclosed please find for filing an original and 15 copies of the Office of Consumer Advocates Comments In the above-capitoned proceeding.

A copy of this document has been served upon all parties of record as evidenced by the attached Certificate of Service.

Sincerely,

Tanya J. McCloskey
Assistant Consumer Advocate

Enclosures

- cc: All parties on the Certificate of Service
- John C. Miller (Bureau of CEEP)
- Hon. John M. Quain, Chairman
- Hon. Robert K. Bloom, Vice Chairman
- Hon. David W. Rolka, Commissioner
- Hon. Nora Mead Brownell, Commissioner
- Hon. Aaron Wilson, Jr., Commissioner

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BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PECO JOINT PETITION FOR FULL :
SETTLEMENT: COMPETITIVE PROVIDER OF : Docket Nos. R-00973953
LAST RESORT, PARAGRAPH 38 : P-00971265

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OF THE OFFICE OF CONSUMER ADVOCATE

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DATED: December 1, 1998

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I. INTRODUCTION

On October 20, 1998, the Pennsylvania Public Utility Commission (PUC or Commission) entered a Tentative Order in the above-captioned proceeding setting forth certain provisions regarding the Competitive Default Service (CDS) established in Paragraph 38 of the *Joint Petition for Settlement of PECO Energy's Restructuring Proceeding*. The Commission attached Annex A, which sets forth such things as the qualifications necessary to bid on CDS, selection criteria for CDS providers, and various terms and conditions of CDS service. The Commission requested that interested parties submit Comments to the Commission to facilitate the resolution of outstanding issues regarding CDS.

Initially, the Office of Consumer Advocate (OCA) suggests that the rulemakings and Commission Orders defining and developing the Provider of Last Resort obligation are among the most important proceedings that will be undertaken by the Commission in restructuring the electric industry. These rulemakings and Order will establish the basic consumer protections for electric service, and assure that this essential service remains available to all citizens of the Commonwealth in an affordable and reasonable manner. Furthermore, the manner in which the CDS is provided will also have a significant impact on the development of a competitive market for residential and small commercial customers because it is likely that many customers (the percentage in Pennsylvania or in the various EDC service territories for which this option is available) will "choose not to choose" and will remain with their current utility.

The OCA would note that the OCA has filed Comments in another Commission proceeding to establish guidelines for the provider of last resort obligation (POLR). These Comments, filed at Docket No. M-00960890F.0017, and attached hereto and incorporated herein by

reference, set forth many of the terms and conditions which the OCA believes should apply to POLR service. Since CDS is a provider of last resort service, the OCA submits that these Guidelines must be applicable to CDS providers of last resort as well as EDC providers of last resort.

Finally, the OCA submits that there must be no derogation of service to residential customers as a result of competitively bidding the provider of last resort obligation. Any competitive bidding procedure must make clear that competitive providers are bidding to provide the same or better quality of service as customers currently receive and will receive from the electric distribution company (EDC). Since the Act requires that service from the EDC be provided to customers with no loss in service quality or consumer protection, it is appropriate for the Commission to impose this same obligation on the CDS provider. See, e.g. 66 Pa.C.S. §2809(e).

The OCA would also note at the outset that although this Tentative Order is directed to the PECO Energy Joint Petition for Settlement, most, if not all, of the criteria and principles recommended by the OCA will be applicable to other utilities that are pursuing Competitive Default Service for a portion of their provider of last resort function. Although there may be some differences regarding implementation under the varying Settlements, the OCA submits that the general principles regarding Competitive Default Service should be the same throughout the Commonwealth.¹

¹ Throughout these Comments, the OCA will refer generally to EDCs rather than to PECO specifically unless a specific reference to PECO is necessary or helpful.

II. SPECIFIC COMMENTS

A. The Requirements Of The Provider Of Last Resort Function, For Either An EDC Or An Alternative Supplier, Are Established By The Act.

As the Commission recognized in Interim Guidelines Addressing Electric Distribution Companies' Activities Relating To Their Provider Of Last Resort Functions, Docket No. M-00960890F.017 (Order entered November 19, 1998), the Act sets forth the responsibilities of a Provider of Last Resort. The OCA submits that the responsibilities as set forth in the Act, and as defined and developed by the Commission through its Orders and Rulemakings must apply equally to competitive providers of last resort. The OCA submits that the establishment of a competitive provider of last resort that is not required to adhere to the same standards as an EDC provider of last resort would adversely affect the consumer protections contemplated by the Act. As the Act makes clear, it is within the Commission's discretion to allow a provider of last resort other than the utility. 66 Pa.C.S. §2802(16). The OCA submits, however, that the Commission must assure that the competitive provider of last resort is held to the same standards as the EDC provider of last resort and that the competitive provider of last resort has the technical and financial fitness to meet these same standards before allowing an alternative provider of last resort under the Act.

As such, the OCA recommends that the Commission set forth clear criteria requiring the CDS provider to be bound by the Act, and all Commission Orders and regulations just as an EDC would be bound. Our comments will suggest a number of specific changes which should be considered by the Commission in its criteria set forth in Annex A.

B. The Rate Cap Provisions Of The Act And Of The Settlements Apply To Competitive Default Service As Well As EDC Service.

Under the Customer Choice Act, the electric distribution company must provide generation services to any customer who is not eligible to choose or who for any reason, seeks to, or needs to, obtain generation services from a distribution company. During the operation of the rate caps, the price for this generation service cannot exceed the rates for this service in effect on January 1, 1997. Customers who try the competitive market and then return to their distribution company still must receive the protections of the rate cap unless the customer elects a new service not subject to the rate cap. The provision of the generation portion of the customer's bill by the distribution company is subject to the rate cap. Utilities may in fact seek to obtain the PLR generation from other sources, but the total customer bill, in the case of the first rate cap, or the generation portion of the bill (inclusive of the stranded cost recovery charges) in the case of the second rate cap, cannot exceed the rates in effect on January 1, 1997, except for a narrow set of reasons not applicable here.

The OCA submits that these protections are equally applicable to any competitive provider of last resort. In fact, the Settlements establishing a competitive default service clearly indicate that no bids will be entertained that exceed the rate cap levels. See, e.g., Joint Petition For Settlement--PECO Energy, ¶38(c) and (e). This protection is essential for consumers. Otherwise, consumers could be disadvantaged by being assigned to the competitive provider of last resort rather than receiving any benefits from the provision of this service through a competitive supplier as contemplated by the Act and the Settlement. The OCA submits that this expectation should be reaffirmed by the Commission in the criteria regarding Selection of CDS Provider.

C. Termination Procedures For Failure To Pay CDS Charges.

The Commission, in its Order, solicits comments on the ability of a CDS provider to terminate service for non-payment. In other words, should the Commission allow a customer to be terminated from the electricity grid for a failure to pay undisputed CDS charges? As the Commission is aware, the OCA has strongly argued that customers should never be terminated from the electricity grid for failure to pay unregulated competitive charges from an alternative supplier. The Commission has agreed with this position, and has issued several Orders, regulations and guidelines adopting this position. See, e.g., Final Order Re: Guidelines For Maintaining Customer Services At The Same Level Of Quality, Docket No. M-00960890F.011 (Order of July 11, 1997 at 38-39). The OCA submits, however, that Competitive Default Service, which is provider of last resort service, must be treated the same as EDC provider of last resort service. Since this service is a POLR service, the CDS, after appropriately complying with Chapter 56 and all relevant consumer protections, must have the ability to require the EDC to terminate a customer from the electricity grid for non-payment of undisputed charges for competitive **default** service, after complying with all of the Commission's regulations. The OCA recognizes that a process will need to be established between the EDC and the CDS to effectuate this termination. We recommend that only the EDC actually physically terminate service at the customer's meter.

As the OCA understands the CDS set forth in the Settlements, the CDS provider will essentially stand in the shoes of the EDC for the provider of last resort function. The CDS will assume all customer cares functions, must serve all customers assigned to it, and must comply fully with the Public Utility Code and the Commission's Orders and regulations promulgated pursuant to the Code. Indeed, the Commission's criteria call for costs associated with these responsibilities,

such as Chapter 56 billing and collection costs, uncollectible expense and universal service costs to be portable with the customers assigned to the CDS provider. See, Criterion T7.² Under these circumstances, the CDS provider is functioning exactly as the EDC provider and must retain the ability to terminate customers for failure to pay undisputed POLR charges in accordance with the Commission's regulations.

The OCA would note, however, that it must be made clear that a CDS provider can only terminate for unpaid charges associated with provider of last resort service. To the extent that the CDS provider has a competitive affiliate or provides competitive generation service in the EDC's service territory, it may **not** terminate a customer for unpaid charges associated with this competitive affiliate or competitive generation service. Therefore, the Commission should require that a competitive provider that provides CDS service should maintain a separate billing and collection method for its CDS customers from its regular competitive service customers.

Alternatively, it may be appropriate for the Commission to permit an approach in its bidding protocols for CDS that allows the CDS provider to return the delinquent customer to the EDC. The EDC should then be permitted to pursue termination in accordance with Commission regulations utilizing the unpaid, undisputed CDS charges as a grounds for termination. Under this scenario, revenues associated with termination, and a certain level of uncollectible expense, would not need to be portable with the customer referred to CDS providers. Such an option may be preferable to some CDS providers.

² Pursuant to Appendix J of the PECO Settlement, these costs have already been unbundled for PECO. The OCA takes no position on whether the specific methodology or results of that negotiated Settlement should be replicated at other EDCs.

The OCA submits that either alternative would properly recognize that CDS is a provider of last resort function. *In no case, however, should a consumer lose any existing Chapter 56 termination protections based on their assignment to CDS.* That is, to the extent a CDS provider assumes the EDC's role in termination, the CDS must be subject to the same Chapter 56 restrictions and requirements that apply to an EDC.

D. Universal Service Funds and LIURP Regulations

The Commission's criteria are unclear as to what entity should administer and deliver universal service programs such as LIURP and CAP programs. In Criterion T5, the Commission requires a CDS to comply with the Commission's LIURP regulations, but it does not specifically state whether the CDS will be responsible for the delivery of LIURP programs, or CAP programs. The OCA had initially contemplated that the universal service program delivery would remain with the EDC, or in this case, PECO. Although PECO will be required to make universal service funding portable with the customer, the administration and delivery of the program remain within the responsibility of PECO. The OCA submits that this should be clarified in the Commission's criteria.

The OCA would raise one other concern in regard to the CDS providing customer cares functions. To the extent that the CDS conducts the billing function for CDS customers, the CDS bill must include any Hardship Fund checkoff lines as are contained on the current EDC bills, and must remit this money to the appropriate fund. This would ensure that collections continue for these important Hardship Funds.

E. The Commission Should Retain The Option Of Allowing A Bid Structure That Does Not Require The Bidder To Perform All Customer Cares Functions.

The Commission's criteria, as well as the Settlements, seek bids for the provision of not only generation service, but all customer cares service as well. As the OCA understands this requirement, the successful bidder would provide all services related to such things as billing and metering, payment arrangements, Chapter 56 compliance, and perhaps even universal service programs. The OCA submits that it is quite possible that, upon further review, alternative suppliers that do not have access to the same customer service structure as an EDC may not be able to submit a bid to provide all customer cares functions. If it appears that the customer cares functions and Chapter 56 requirements are too onerous to produce successful bids at or below the rate cap, the Commission may need to modify the CDS program. The OCA submits, however, that in no circumstance should service be degraded for CDS customers. Rather, a bid structure that does not require the provision of all customer cares functions should be contemplated.

For example, a competitive bid could be conducted just for the generation service, such as the standard offer bids in Maine. Under this scenario, competitive providers would bid to provide generation to the EDC (including the renewables requirement) at a rate equal to or less than the generation shopping credit. The EDC would retain all customer cares functions and would continue to provide billing and metering services, universal services, payment arrangements, and other customer cares functions as it does today for the POLR customers. The alternative provider would simply be providing generation service at a rate that is competitive with the current shopping credit.

The Settlements, however, appear to contemplate a bidding process where the CDS will not only provide generation service, but will also provide some portion, if not all, of the customer care functions. The Commission may wish to explore in the future whether some potential CDS providers would be interested in providing the generation service only in response to this service and whether this approach would result in lower prices for POLR customers.

F. PreQualification Criteria

With respect to creditworthiness criterion (PQ2), the OCA recommends that the interested CDS bidder demonstrate its ability and willingness to increase the amount of its security bond by the level of retail sales reflected in the provision of CDS. The Commission should make it clear that it will require the winning CDS provider to provide a security bond on a higher amount as a condition of award of the winning bid. This increased security amount will be particularly important because of the role of the CDS provider in billing for the entire electric bill for affected customers and the CDS provider's responsibility to comply with all of the Commission's service quality and customer service rules and regulations which would otherwise be applicable to the EDC.

With respect to customer care functions (PQ7), the interested CDS bidder should do more than merely "describe the manner in which customer care functions will be accomplished." The bidder should provide the necessary demonstration that it can in fact provide the necessary customer care functions on the scale required for the applicable CDS service. While the CDS bidder may not yet in fact have the facilities in place to provide such service at the time it submits its prequalification materials or its bid, it should nevertheless demonstrate that it has access to the necessary skills and resources to provide such services *at the same level of service quality enjoyed by the EDC's customers.*

G. Selection Criteria

1. Criteria S3 and S4--Rate Design and Rate Stability

The Commission's Tentative Order (Annex A, S3 and 4) addresses the rate design and rate stability of the CDS service. The OCA recommends that these criteria should require the CDS provider submit a bid utilizing the same basic block rate structure or rate design for each affected customer class. Although rates in one or more of the blocks may be lower than the EDC rates, it is only by requiring the use of the same rate block structure that the Commission can assure that the rate cap provisions of the Act are adhered to by the CDS provider. While the CDS service may in fact result in lower rates (*i.e.*, those less than the applicable shopping credit), it should not result in changes in rate structure that could result in violations of the rate cap or shifting of costs between customers. In addition, the OCA recommends that the rates during the bid period be fixed and not subject to variation in order to provide rate stability for CDS customers.

2. Criterion S2--Length of bid

The Commission's Criteria, in paragraph S2, allows for bids of up to three years. The OCA agrees that if customer cares functions are to be included as services provided by the CDS, the option of a multiple year bid may be necessary. Since the provision of certain customer cares functions may require additional staffing and training by the CDS, it may prove to be cost effective only if the CDS is able to submit a multi-year bid to perform these services.

H. Terms and Conditions of Service Criteria

1. Criterion T5--Obligation To Adhere To All Applicable Commission Regulations.

In Criterion T5, the Commission makes clear that a CDS provider has the obligation to abide by all applicable regulations, including but not limited to Chapter 56. As the OCA set forth above, the OCA believes that this is a key element of CDS service. As such, the OCA recommends that this provision be retained and strengthened as we have recommend in Criterion PQ7, above.

2. Criterion T10--Notice Before Switching Customers and Opt Back Provisions

The Commission's criteria call for the assignment of customers to the CDS by random selection. See, Criterion T10. As set forth in the Settlement, a customer assigned to CDS retains the right to return to PECO default service at any time at no charge. The Commission has accurately reflected this provision in Criterion T1. The OCA is concerned, however, about customers being assigned or switched to CDS without their understanding of the CDS service and its role in providing POLR service. The OCA would recommend that after PECO has conducted a lottery of its customers, a letter or postcard should be sent to the customer informing the customer that the CDS provider will now be their provider of last resort and that the CDS provider will provide the same functions and at the same level of service quality as required of PECO. If the customer does not want to be changed to the CDS provider, the customer should be given the opportunity at that point through a simple check-off procedure to elect to remain with the PECO default service. This process could avoid confusion and disruption for customers who are selected to be switched to CDS, but want to remain with PECO.

Furthermore, the OCA suggests that the Commission consider whether and to what extent a specific customer education effort may be needed by the Commission and the affected EDCs concerning the existence of the CDS and its role in providing POLR service. Such an educational effort should be coordinated with the bidding process for this service and the customer notification and lottery already described in the Commission's guidelines.

3. Criterion T12--Further Random Selection

Criterion T12 of Annex A provides for the further random selection of customers to CDS if the number of residential customers served by the CDS falls below 17%. This criterion provides that these customers will be selected from customers already served by an EGS other than PECO. This provision reflects a provision contained within the Settlement. The OCA submits, however, that this provision should be re-examined to assure that it does not have a detrimental effect on the CDS bid process.

In its May 12, 1998 response to the Commission's Tentative Order calling for Comments on the PECO Settlement, the OCA identified its concern with this provision of the Settlement. As the OCA set forth in those Comments, it is a continuing concern to the OCA that CDS be sufficiently attractive to produce truly competitive bids from a number of suppliers. The provision of the Settlement that calls for restoring the 20% level only from customers who are already served by suppliers other than PECO would skew the CDS process in the years after 2001 and make the CDS bid group less attractive to bidders. It was the OCA's understanding that the CDS bid group is intended to reflect a "slice" of the PECO residential customer base, representing both customers receiving power from their selected EGS and those continuing to receive generation

from the default provider.³ Under the Settlement, however, if a significant number of customers within the CDS bid group either leave the PECO service territory or choose to switch back to PECO, their replacements will be drawn exclusively from those customers already receiving generation from an alternative supplier. In the years after 2001, bidders for the CDS bid group may find it uneconomic to stand by with capacity for an increasing and disproportionate number of customers who do not actually purchase their power from the bidder. The more uneconomic this CDS bid group becomes to serve, the higher the bids submitted will become. This is particularly troubling since the price of **all** default service customers may hinge upon the winning bid submitted for the CDS bid group since the bid price also serves as the floor at which PECO can provide default service to its own residential customers.

As the OCA noted in its Comments filed May 12, 1998 in response to the Tentative Order, this issue must be addressed as the Commission establishes the terms and conditions for CDS for PECO. In subsequent Settlements with PP&L, the GPU Companies, and West Penn Power Company, this provision was specifically modified to allow for restoring the number of customers through a random selection in a manner to be determined by the Commission. See, e.g., *Joint Petition for Settlement of PP&L, Inc.'s Restructuring Plan*, Docket No. R-00973954 (Settlement, ¶C.1.d); *Joint Petition for Settlement of Metropolitan Edison Company's and Pennsylvania Electric Company's Restructuring Plans*, Docket Nos. R-00974008 and R-00974009 (Settlement, ¶F.11); and

³ The initial CDS block is defined in Paragraph 38(a) of the Settlement as "20% of all of PECO's residential customers--determined by random selection, including low-income and inability-to-pay customers, and *without regard to whether such customers are obtaining generation service from an EGS.*" (emphasis added)

Joint Petition for Settlement of West Penn Power Company's Restructuring Plan, Docket No. R-00973981 (Settlement, ¶C.1.d).

The OCA submits that Criterion T12 should be modified at this time to allow for restoring the number of customers to CDS from a "slice" or cross-section of PECO's residential customers, rather than from only those customers who are already receiving service from an EGS. The OCA submits that to limit the random selection in the manner set forth in Criterion T12 may result in a CDS bid group that is unattractive to potential bidders and more costly to serve. As such, the OCA submits that without this modification, the CDS bid process may not produce the results intended by the Settlement.

4. Criterion T14--Wholesale Purchases

In Annex A, Criterion T14 provides that the CDS provider must satisfy its obligation as provider of last resort by purchasing the required amounts of energy and capacity at wholesale. The OCA is unsure as to why such a specific criterion was proposed. Although it is most likely that purchases on the wholesale market will be the mechanism for providing power to meet the obligation, the OCA would not want to see this criterion foreclose other means of meeting the load requirements of the CDS customers. For example, depending on wholesale prices, it may be cost effective for the CDS provider to utilize its own generating capacity or to utilize alternative demand side management measures to assist in meeting its load requirements. As such, the OCA would recommend that this criterion be less specific to allow some flexibility for the CDS provider.

I. Emergency Call Provisions

Provisions should be made so that customers transferred to the CDS provider have a clear understanding of which company to contact in the event of a system emergency such as an

outage. Since the majority of outages are distribution related, and PECO remains the provider of distribution service, PECO should remain the contact point for outage related complaints. The CDS provider should be required to provide PECO's outage call center telephone number on its customer bills. The OCA submits that this customer service function should not be transferred to the CDS.

J. Summary of OCA's Additional Recommendations

1. Summary of OCA's Recommendations From Docket No. M-00960890F.017

The Commission, in Criterion T18, requires the CDS provider to fulfill the responsibilities and obligations of PLR service as further defined in the Commission's Order at Docket No. M-00960890F.017. As noted above, the OCA submitted Comments in that proceeding setting forth certain policies and provisions that should apply to provider of last resort service, whether provided by the EDC or a competitive default provider. The Commission incorporated many of the OCA's recommended policies in its Guidelines in that docket, and in its Criteria contained in Annex A in this proceeding. For clarity, the OCA will set forth its list of policies herein, all of which the OCA submits are applicable to CDS providers, as well as EDC providers.

The list of policies and provisions are as follows:

- The PLR service must conform strictly to the rate caps contained within the Act and the Settlements.
- The EDC should not charge a fee to any customer or require residential customers to enter into contracts to obtain PLR service or to return to PLR service after entering the competitive market.
- The EDC or CDS provider must comply with all relevant provisions of the Pennsylvania Commission's consumer protection rules for residential customers, including Chapter 56.
- PLR should be provided automatically to any customer who does not have a competitive provider of record at the time of the customer's meter reading and billing. There should be

no procedural hoops or requirements other than the absence of a competitive provider for the customer's account prior to the provision of this service.

- The PLR service is subject to the Commission's Orders and Rulemakings, particularly Maintaining Customer Services, Docket No. M-00960890F.011 (order of July 11, 1997) and Final Rulemaking On Customer Information Disclosure, L-00970126 (52 Pa. Code Chapter 54).
- In obtaining the generation service to provide PLR service, an EDC shall not provide any information to an affiliate that is not provided to all potential providers for the generation service.
- An EDC is prohibited from terminating PLR service for failure to pay competitive alternative supplier charges.
- An EDC is prohibited from collecting or attempting to collect any unpaid charge for competitive services owed by a customer to a competitive provider, including the EDC's affiliate, as a condition of receipt or continuation to receive PLR service.
- An EDC providing PLR service should not take any action or have any communication with its customers which would undermine a customer's acceptance of PLR services provided by competitive bid or by an EGS selected to provide CDS.
- An EDC shall not promote or engage in marketing of its PLR service to the detriment of competitive generation service.

The OCA recommends that these policies be applied to the CDS providers as well as the EDC providers.

2. Summary of OCA's Specific Recommendations Regarding Annex A.

In addition to the above-stated recommendations, the OCA's Comments suggest some specific modifications or additions to the Criteria set forth in Annex A. A summary of the OCA's key points follows:

General Comments

- The Commission's Final Order should reaffirm that the rate caps contained in the Act, and as amended by the Settlements, apply to the Competitive Default Service.

- The Commission should develop a specific customer education program associated with CDS service and customer selection for this service.
- The Commission should establish a process of customer notification that allows the customer to opt back to the EDC prior to the customer actually being switched to CDS.
- The Commission should clarify the role of the EDC with respect to the administration and delivery of universal service programs, including CAP and LIURP, when POLR service is provided by the CDS provider.
- The Commission should require the CDS provider to list the EDC's outage and repair customer call center on its bill.

PreQualification for CDS Bidders

- PQ2(c) should be amended to clarify that the successful CDS bidder must increase the amount of their security bond on file with the Commission to reflect the volume of retail sales for CDS.
- PQ7 should require the CDS bidder to demonstrate its ability to comply with the Commission's regulations and policies applicable to customer cares functions offered by the CDS provider at the same level of service quality currently offered by the EDC.
- A new PreQualification criterion should be added to allow a CDS bidder to indicate a preference for bidding solely for generation service, as well as one or more customer cares functions.

Selection Criteria

- Criteria S3 and S4 should be amended to require that the bids reflect the current rate block structure or rate design for each customer class, although the rates contained in the blocks may be lower. In addition, bids should provide rates that are stable or fixed during the term of the bid.

Terms and Conditions of Service

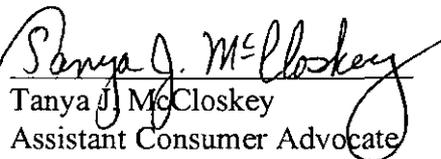
- Criterion T5 should be amended to make clear that the CDS provider must comply with the Commission's customer service, service quality and consumer protection rules and regulations in the same manner and at the same level of quality (or higher) that the EDC provides in its POLR service. Criterion T5 should embody the same policy as contained in PQ7.

- The Commission should set forth specific guidance with respect to the termination function by the CDS. Since CDS is POLR service, the OCA recommends that the responsibilities and obligations regarding payment of these charges be the same as for the payment of EDC charges.
- If the CDS provider also has a competitive generation affiliate, or provides competitive generation service other than CDS in the service territory, the CDS provider must maintain a separate collection process for its CDS customers so as to prevent the termination or threat of termination for unregulated or competitive charges.
- Criterion T12 should be modified to allow for restoring customers to CDS through a random selection of residential customers from a “slice” or cross section of all of PECO’s residential customers.
- Criterion T14 should be amended to allow for the provision of CDS service by other than purchases in the wholesale market.

III. CONCLUSION

The OCA, through these Comments, has attempted to identify some policies and principles regarding Competitive Default Service. The OCA submits that the process of defining and developing provider of last resort service, including competitive default service, must continue to evolve as we gain more experience with the competitive markets. The OCA looks forward to continuing to work with the Commission and other interested parties, in the development of these important services for Pennsylvania's consumers.

Respectfully submitted,


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Dated: December 1, 1998
50574

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, OCA's
Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code
§ 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 1st day of December, 1998.

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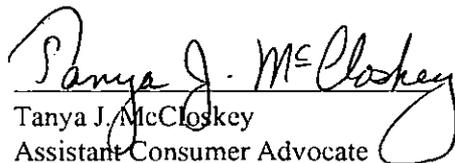
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APPENDIX A

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 5, 1998

James J. McNulty, Secretary
PA Public Utility Commission
Room B-20, North Office Bldg.
Harrisburg, PA 17105-3265

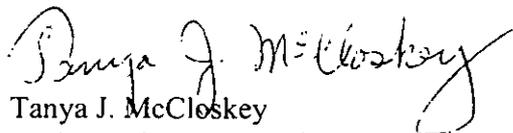
Re: Request for Comments-Binding Interim Guidelines
Addressing Electric Distributing Companies'
Activities Relating to their Provider of Last Resort
Functions
Docket No. M-00960890.F0017

Dear Secretary McNulty:

Enclosed please find for filing an original and fifteen (15) copies of the Office of Consumer Advocate's Comments in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,


Tanya J. McCloskey
Assistant Consumer Advocate

Enclosures

cc: Parties of record
John M. Quain, Chairman
Robert K. Bloom, Vice-Chairman
David W. Rolka, Commissioner
Nora Mead Brownell, Commissioner
Aaron Wilson, Jr., Commissioner

48476

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

REQUEST FOR COMMENTS: :
BINDING INTERIM GUIDELINES :
ADDRESSING ELECTRIC :
DISTRIBUTION COMPANIES' : Docket No. M-00960890F.0017
ACTIVITIES RELATING TO THEIR :
PROVIDER OF LAST RESORT :
FUNCTIONS :

COMMENTS
OFFICE OF CONSUMER ADVOCATE

Tanya J. McCloskey
Assistant Consumer Advocate

For:
Irwin A. Popowsky
Consumer Advocate

Office of Attorney General
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
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DATED: October 5, 1998

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I. INTRODUCTION

On September 18, 1998 the Pennsylvania Public Utility Commission (Commission or PUC) issued an Order seeking input for its preparation of a binding set of Interim Guidelines and proposed rules regarding the role of the electric distribution company (EDC) in its provision of Provider of Last Resort (PLR) service. The Commission's Order cited a provision of the settlement of Pennsylvania Power and Light, Inc.'s Restructuring Plan, Docket No. R-00973954, Section K.4 (at 40) in which the parties agreed that the Commission would develop a separate Code of Conduct "which will apply to the EDC activities in the marketplace and which will clarify the PLR function. By September 15, 1998, the Commission will establish a set of binding Interim Guidelines regarding EDC activities in the marketplace."

Initially, the OCA would note that it believes that the Commission's Request For Comments addressing Electric Distribution Companies (EDC) activities relating to their Provider of Last Resort function is a first important step in a series of proceedings that will need to be undertaken in defining and developing the Provider of Last Resort obligation. The OCA does not interpret the Commission's Order of September 18, 1998 as intending to set forth all of the rules, regulations and guidelines of the Provider of Last Resort service. Rather, the OCA interprets the Commission's Order as seeking, through these Comments, to establish interim guidelines for certain activities regarding the PLR function to assist EDCs in understanding their role as the Provider of Last Resort as the Commission further develops the rules and regulations of this service. As pointed out by the Commission in its September 18th Order, "EDC's functioning as PLRs should clearly understand what is expected of them, including but not limited to what marketing efforts they may or may not engage in, what conditions, if any they may place on returning customers, the

relationship between the EDC function and their PLR function, and their duty to assure that customers understand their choices.” Order at 3-4. Given the 15-day Comment period, the OCA has sought to focus its Comments on these issues.

The OCA would also note that the Settlements with PP&L, PECO, Met-Ed and Penelec provide for a Competitive Default Service (CDS). In other words, these settlements call for a certain percentage of customers to receive Provider of Last Resort service from a supplier that was selected by a competitive bidding procedure. The OCA anticipates that the Commission will conduct a collaborative, or further proceedings, to establish the rules regarding the competitive PLR service for these EDCs. The OCA anticipates that this process will also address the EDCs continuing obligations in providing PLR service in light of the competitive bidding procedures.

With the Commission’s Order and the Settlements as background, the OCA hereby provides the following Comments to assist the Commission in developing interim guidelines regarding the Provider of Last Resort function. In the last section of these Comments, the OCA will identify some specific rules that it recommends be incorporated into the Commission’s Interim Guidelines.

II. SPECIFIC COMMENTS

A. The Act Sets Forth The General Expectations of The Provider Of Last Resort Obligation.

The OCA submits that the starting point for determining what is expected of the EDC in serving the PLR function is grounded in the Electricity Generation Customer Choice and Competition Act (the Act). 66 Pa.C.S. §2801 et seq. Pursuant to the Act, the EDC must provide Provider of Last Resort Service to customers who do not choose a competitive provider, who are unable to obtain service from a competitive provider, or who have contracted for electric supply that is not delivered. The electric utility's general obligation to serve is stated in Section 2807(e)(1) as follows:

While an electric distribution company collects either a competitive transition charge or an intangible transition charge or until 100% of its customers have choice, whichever is longer, the electric distribution company shall continue to have the full obligation to serve, including the connection of customers, the delivery of electric energy and the production or acquisition of electric energy for customers.

66 Pa.C.S. §2807(e)(1).¹

Section 2807(e)(2) requires the Commission to establish rules that will govern the Provider of Last Resort service after the end of the transition period. Subsections 3 and 4 then provide guidance to the Commission for these future rules. Of particular note, subsection 3 establishes that the EDC, or the Commission-approved Provider of Last Resort, is obligated to

¹ The OCA would note that for some Pennsylvania electric utilities, such as Wellsboro, Citizens, and Pike County, these conditions will be met in the near term given the settlements of these proceedings and the limited stranded cost recovery. The OCA submits that the Commission, through these interim guidelines, should clarify that the utilities' obligation to provide PLR service should continue until such time as the Commission resolves these issues in a final rulemaking, or until a separate Petition is made to the Commission and approved by the Commission.

acquire electric energy at prevailing market price and to recover reasonable costs. 66 Pa.C.S. §2807(e)(3). Importantly, however, the operation of the capped rates in Section 2804 control the obligations of the distribution company, and the alternative PLR with regard to pricing generation services to its customers. The pricing structure of this service, whether provided by the EDC or the CDS provider, must still assure compliance with the rate cap provisions during the period in which stranded costs are being recovered and as those rate caps are extended in the various Restructuring Plan settlements and decisions.

Indeed, for many residential customers, the OCA submits that the combination of the rate cap and PLR provisions of the Act represent the single most important protection in the Act. These provisions assure that even if customers cannot or choose not to switch to an alternative supplier, they will be assured safe and adequate service at generation rates that are no higher than when the Act was passed. These, provisions, therefore, must be strictly enforced.

In summary, under the Customer Choice Act, the electric distribution company must provide generation services to any customer who is not eligible to choose or who, for any reason, seeks to, or needs to, obtain generation services from a distribution company. During the operation of the rate caps, the price for this generation service cannot exceed the rates for this service in effect on January 1, 1997. Customers who try the competitive market and then return to their distribution company still must receive the protections of the rate cap unless the customer elects a new service not subject to the rate cap. The provision of the generation portion of the customer's bill by the distribution company is subject to the rate cap. Utilities may in fact seek to obtain the PLR generation from other sources, but the total customer bill, in the case of the first rate cap, or the generation portion of the bill (inclusive of the stranded cost recovery charges) in the case of the

second rate cap, cannot exceed the rates in effect on January 1, 1997, except for a narrow set of reasons not applicable here.

As such, the OCA submits that the Act clearly sets forth the expectation that the EDC will remain as the provider of last resort--subject to the rate cap--so long as it is collecting stranded costs, unless the Commission otherwise approves an alternative provider of last resort. This expectation should be reaffirmed by the Commission in its Interim Guidelines.

B. An EDC Providing Transmission, Distribution And/Or Generation Service To Customers In Its Service Territory Is Functioning As The Provider Of Last Resort.

The Commission has raised an issue about the relationship between the EDC function and the PLR function. The OCA submits that an EDC that is providing generation service to a customer in its service territory, as well as transmission and distribution service, is functioning as the PLR. In other words, an EDC providing generation service in its service territory is providing PLR service for its service territory, whether or not the customer has made a choice or returned to the service. The OCA anticipates that an EDC could have an affiliate, or division, that provides competitive generation service in the EDC's service territory.² This competitive affiliate or division, however, should not be confused with the EDC which is providing transmission and distribution service, and generation service only as the PLR. The competitive affiliate or division must be treated as an EGS or alternative provider. Moreover, the EDC's relationship with its competitive affiliate must be subject to the Code of Conduct, and the EDC's competitive affiliate can be treated no differently than other alternative providers by the EDC.

² The OCA anticipates that EDCs will create affiliates for competitive generation service and not simply divisions. The use of a division within the EDC could further complicate the role of the EDC as the PLR, and should be avoided.

C. The Commission's Orders and Rulemakings, In Conjunction With Each EDC's Tariff Set Forth The Conditions For PLR Service At This Time.

The Commission also seeks to determine if there are any conditions that an EDC may place on returning customers. The OCA extensively litigated these issues in each utility's restructuring proceeding when addressing the numerous EDC tariff issues in each case. Many of these issues were unique to each utility, and many involved tariff rates or schedules unique to a particular utility. Additionally, the Commission has issued several Orders and Rulemakings that have set forth the Commission's requirements for EDCs serving all customers, including returning customers. See, e.g., Guidelines For Maintaining Customer Services, Docket M-00960890F.011 (Order of July 11, 1997); Guidelines For Universal Service And Energy Conservation, Docket No. M-00960890F.010 (Order of July 11, 1997) and Final Rulemaking On Customer Information Disclosure, Docket No. L-00970126.

As a general matter, the OCA has argued, and the Commission has agreed, that at this time, there should be no conditions placed on the customer receiving PLR service or returning to PLR service that would impede the customer's ability to fully participate in the developing competitive market. For example, the Commission has rejected switching fees imposed by EDCs, contract requirements for residential customers to receive PLR service, and contract termination fees. In addition, the Commission has made clear that customers may return to the capped rate schedules, contracts, or riders that the customer was previously served on when the customer returns to PLR service. The Commission, through various Orders and Rulemakings, has also set forth standards and guidelines regarding, among other things, termination of service, reconnection of service, and compliance with Chapter 56. In particular, the OCA submits that the Commission's Order on

Maintaining Customer Services, Docket No. M-00960890F.011 (Order of July 11, 1997) has comprehensively set forth many of the requirements and expectations for EDCs providing PLR service.

The OCA submits that if severe conditions are imposed on the ability of customers to return to PLR service, it will even further impede the willingness of customers, particularly residential customers, from entering the competitive market in the first place.

The OCA submits that, at this time, the conditions now embodied in each EDC's tariff, in conjunction with the Commission's Orders and Rulemakings, provide the basis for the provision of PLR service. The Commission's Interim Guidelines here should reaffirm that PLR service is to be provided in accordance with all Commission Orders and Rulemakings, as well as in compliance with each EDC's tariff and any relevant settlement provisions.

The OCA recognizes that, as we gain more experience with PLR service, it may become appropriate to allow the EDC to place certain conditions on returning customers such as limiting the number of times a customer can switch to and from PLR service in a specified period. If problems with PLR service arise, appropriate conditions can be developed to resolve these problems. At this time, however, the OCA submits that each Company's EDC tariff, in conjunction with the Commission's Orders, Rulemakings and any resulting settlements, should be utilized to define the conditions that may be placed on customers returning to PLR service.

D. The EDC Retains The Duty To Assure That Consumers Are Educated And Informed In A Manner That Aids Consumers In Understanding Their Choices.

The Commission has also asked for comment on the EDC's duty to assure that customers understand their choices. Order at 4. The OCA submits that, pursuant to Section

2807(d)(3), the EDC, in conjunction with the Commission, remains obligated to provide a consumer education program in its service territory that, among other things, “provides consumers with information necessary to help them make appropriate choices as to their electric service.” 66 Pa.C.S. §2807(d)(3). Additionally, the EDC is required to adhere to the Commission’s regulation requiring each EDC, as well as electricity suppliers, marketers, aggregators and brokers, to provide adequate and accurate customer information to enable customers to make informed choices. 66 Pa.C.S. §2807(d)(2). The Commission has set forth these regulations and guidelines in its Customer Information Order to assure that appropriate information is provided to consumers. See, Final Rulemaking Order On Customer Information Disclosure Requirements, Docket No. L-00970126.

The OCA submits that the EDC’s duty in this regard is clear. The EDC is obligated to provide both consumer education and consumer information to assist customers in making appropriate choices as to their electric service. The OCA submits that these requirements should be strictly adhered to by the EDC since informed and educated consumers are necessary to a fully functioning and workable competitive market.

Of particular concern, however, is the question of informing and educating customers about the PLR function. The OCA submits that it is appropriate and within the EDC’s duties to educate and inform customers about the PLR service. It is vital that consumers understand the availability and the terms of PLR service. The OCA submits, however, that the EDC, in serving the PLR function, should not promote or market the PLR service over competitive alternatives. In other words, these materials should educate consumers so that they can make an informed choice--whether that be to choose PLR service or to choose an alternative provider. As set forth below, to allow the EDC to promote PLR service as superior to competitive generation service could

undermine the development of the competitive market, as well as the Competitive Default Service contemplated by the settlements in PECO, PP&L, Met-Ed and Penelec.

E. An EDC Should Not Be Permitted To Market Or Promote Its PLR Service As A Means Of Undermining The Development Of The Competitive Market and Competitive Default Service.

There is an obvious potential for unfair marketing practices for an EDC that provides PLR services during the transition to a competitive generation market. The EDC retains these customers at no cost and is not required to provide the competitive portion of this service from its competitive affiliate, a step that would at least emphasize the separate and competitive nature of the generation portion of this service. It is up to the competitive providers to convince customers to enter the competitively priced market for the generation portion of the bill. The assumption is that if customers cannot obtain electricity from the competitive market which lowers their overall bill (or provides other competitive benefits), they have a safe haven with the current utility in the form of capped PLR service. However, if the EDC markets this PLR function in order to convince the customer to not even consider shopping for electricity, it exerts an unfair advantage over any other marketer. This is so because the EDC has obtained its customers at no incremental cost and it is obviously more expensive to gain a new customer by persuading an existing customer to take affirmative action to choose a new supplier. In other words, an EDC that urges customers to remain with the local utility through unfair use of its EDC status exercises an unfair advantage and creates a significant impediment to the development of a competitive market.

The potential for unfair advantage has already been demonstrated by the communications issued by both PECO Energy and PP&L which urge customers to “do nothing” and stay with their local utility for service. These letters imply, for example, that customers who shop

for electric generation will jeopardize their guaranteed rate reductions and could be forced to receive more than one bill. Letters sent by each Company are included as Attachment 1 to these Comments. The actions of both utilities demonstrate the danger inherent in allowing the EDC to market its PLR service as a means of maintaining their market share. The reasons which led to the creation of separate competitive affiliates to avoid having the EDC perform the dual role of conducting the monopoly transmission and distribution function and the competitive retail generation sales function in one organization are thwarted when the EDC can circumvent those structural safeguards and promote the PLR service as a means of preventing customers from considering competitive alternatives.

Therefore, the OCA suggests that the Commission adopt as an interim guideline a provision similar to that contained in the Joint Petition for Settlement for the GPU Companies that provides that the Company "shall not engage in marketing activities related to its default PLR function." Joint Petition for Settlement, ¶F.4, p. 37. The OCA recognizes that this provision was not included in the PP&L and PECO Settlements and is of no controlling precedent in this proceeding. However, in light of the activities already undertaken by PECO and PP&L in regard to their PLR service, the OCA submits that the principle set forth in the GPU Settlement provision makes sense and should be adopted as a general rule.

This general rule should be enforced by requiring the EDCs to prescreen their customer communications concerning PLR service with the Commission along with other informational materials issued by the EDC in its regulated function. The OCA agrees that consumers can and should be informed about the availability and terms of PLR service. Such information is necessary so that consumers can make an informed choice among PLR service and

the array of competitive choices available to them. The EDCs, however, should not be permitted to promote the PLR service in such a way that it prevents, rather than supports informed decisionmaking.

Moreover, the OCA is concerned that the Competitive Default Service option contained in the Settlements with PECO and PP&L could be undermined by marketing efforts directed at the EDCs default service. Such marketing efforts could undermine the customer understanding and acceptance of the process by which a CDS is selected and to whom customers will be randomly assigned. For example, urging customers to “do nothing” does little to prepare customers for the competitive choice of a PLR provider and their assignment to that provider. It is incumbent on the EDCs to take no action which could reasonably be interpreted as undermining the future provision of the PLR service by competitive bid.

As such, the OCA recommends that the EDCs be prohibited from promoting PLR service as a preferred alternative to customer choice. The EDC's role is to explain and inform customers about PLR service, not promote PLR service over competitive alternatives.

III. OCA'S RECOMMENDATIONS

The OCA suggests specific rules which should be applicable to EDCs when providing PLR service in addition to the marketing prohibition suggested above. These same policies should be applicable to any provider who seeks to provide Competitive Default Service. A list of policies and provisions that should be incorporated in the Interim Guidelines is as follows:

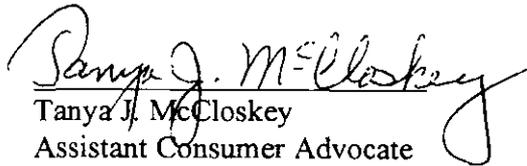
- The PLR service must conform strictly to the rate caps contained within the Act and the Settlements.
- The EDC should not charge a fee to any customer or require residential customers to enter into contracts to obtain PLR service or to return to PLR service after entering the competitive market.
- The EDC or CDS provider must comply with all relevant provisions of the Pennsylvania Commission's consumer protection rules for residential customers, including Chapter 56.
- PLR should be provided automatically to any customer who does not have a competitive provider of record at the time of the customer's meter reading and billing. There should be no procedural hoops or requirements other than the absence of a competitive provider for the customer's account prior to the provision of this service.
- The PLR service is subject to the Commission's Orders and Rulemakings, particularly Maintaining Customer Services, Docket No. M-00960890F.011 (order of July 11, 1997) and Final Rulemaking On Customer Information Disclosure, L-00970126 (52 Pa. Code Chapter 54).

- In obtaining the generation service to provide PLR service, an EDC shall not provide any information to an affiliate that is not provided to all potential providers for the generation service.
- An EDC is prohibited from terminating PLR service for failure to pay competitive alternative supplier charges.
- An EDC is prohibited from collecting or attempting to collect any unpaid charge for competitive services owed by a customer to a competitive provider, including the EDC's affiliate, as a condition of receipt or continuation to receive PLR service.
- An EDC providing PLR service should not take any action or have any communication with its customers which would undermine a customer's acceptance of PLR services provided by competitive bid or by an EGS selected to provide CDS.
- An EDC shall not promote or engage in marketing of its PLR service to the detriment of competitive generation service.

IV. CONCLUSION

The Office of Consumer Advocate, through these Comments, has attempted to identify some initial concerns regarding the Provider of Last Resort Service that should be addressed in the Commission's Interim Guidelines. As the OCA has noted, this Request for Comments is only the first step in a continuing process of defining and developing this service to best serve the needs of Pennsylvania consumers. The OCA looks forward to continuing to work with the Commission, and all parties, in the development of Provider of Last Resort service.

Respectfully submitted,


Tanya J. McCloskey
Assistant Consumer Advocate

Counsel for:
Irwin A. Popowsky
Consumer Advocate

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Harrisburg, PA 17101-1923
(717) 783-5048

Dated: October 5, 1998
48445

ATTACHMENT I



**PECO
ENERGY.**

no doubt about it.

2301 MARKET STREET
PHILADELPHIA, PA 19101

August 19, 1998

Dear PECO Energy Customer,

Change can be both exciting and confusing. And that's why we want to inform you about a choice you have in the Pennsylvania Electric Choice Program. As you know, the majority of electric customers in Pennsylvania will have the opportunity to choose their electric generation supplier in 1999, with everyone able to choose starting in January 2000. But what does that really mean?

With PECO Energy, you're *guaranteed* to save 8% off your entire electric bill in 1999, whether or not you choose a new supplier. Suppliers can promise to save you money and may even ask you to make decisions about non-energy services, such as telecommunications, special metering and other options. Take a look at the fine print and determine who can give you the best overall package.

For example, how will you be billed for your electricity? Right now, it's easy. You receive one bill from PECO Energy for your gas and electric service. You make one payment, once a month.

Depending on what other suppliers are offering, you could end up with multiple bills — one for power generation, one for electric distribution and one for your PECO Energy gas. And there's no guarantee they'll all arrive at the same time. That means writing more checks, using more stamps and having more charges to track.

Avoid the hassle of extra bills and confusing charges by keeping PECO Energy as your electricity and billing provider ... and save 8% on your electricity in 1999. It's easy — *stay with PECO Energy Distribution Company!*

PECO Energy has been around for over 100 years. It's important to remember that no matter who you choose to buy your electricity from, we'll still be delivering it. The easy choice is not to change suppliers — do nothing, even if you've already enrolled! If you have any questions, just call the Consumer Choice Education Center at (800) 980-9655 or visit our website at www.peco.com.

Sincerely,

Kenneth G. Lawrence
President, PECO Energy Distribution Company

P.S. Even if you choose another electricity supplier, you can request them to have PECO Energy handle all your billing. And that means you'll get only one bill for your PECO Energy gas and electricity, just like you do now.

PP&L, Inc.
Two North Ninth Street
Allentown, PA 18101-4179
Tel. 1.800.342.5775
www.ppl-inc.com



Dear PP&L customer:

As a leading proponent of Pennsylvania's Electric Choice Program, we are very pleased that you now have a number of options in your electricity purchases. We're writing to you today to be sure that you know about a particularly important option:

You can choose to stay with PP&L, Inc.

Your choice to stay with PP&L comes with a number of guarantees. You don't have to sign a long-term contract. You get one bill for your electricity service. You get PP&L's high-quality customer service for all your electricity needs. And, on top of these benefits, your electricity rates will automatically decrease by an average of 4 percent for 1999.

When you choose to stay with PP&L, you already know that you are choosing excellent customer service. PP&L customers are likely to recommend us to a friend or a neighbor. And, with PP&L you're guaranteed the convenience of one bill. With other suppliers, you could end up with two bills — one for electricity supply and one for electricity delivery. And, there's no guarantee they'll arrive at the same time.

Choosing to stay with PP&L preserves your options in an electricity supply market that is just taking shape. PP&L won't ask you to sign a long-term contract, so your freedom to choose another electricity supplier in the future is guaranteed.

Those of us at PP&L urge you to carefully consider all your options as the Electric Choice Program starts in Pennsylvania. And, no matter whom you choose as your supplier, we'll be there to provide top-notch delivery services.

But, as you make your choices, we urge you to seriously consider an option that guarantees you savings with no confusion and no extra bills.

And there's more good news: Choosing PP&L requires no action on your part. If you want to stay with PP&L, simply do nothing, even if you're already enrolled in the Electric Choice program. It couldn't be easier.

We've been privileged to provide service to you and 1.2 million of your neighbors for nearly 80 years, and we look forward to continuing that relationship. We're working hard to remain the kind of electricity company you choose, again and again. If staying with PP&L is your choice, we thank you.

If you have any questions, call us toll-free at 1-800-DIAL-PPL between 7 a.m. and 7 p.m., Monday through Friday, or visit our web site at: www.ppl-inc.com

Sincerely,

Ray Suhocki
Vice President
PP&L, Inc.

CERTIFICATE OF SERVICE

Re: Request for Comments-Binding Interim Guidelines Addressing
Electric Distribution Companies' Activities Relating to their
Provider of Last Resort Functions
Docket No. M-00960890.F0017

I hereby certify that I have this day served a true copy of the foregoing document,
OCA's Comments, upon parties of record in this proceeding in accordance with the requirements
of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed
below:

Dated this 5th day of October, 1998.

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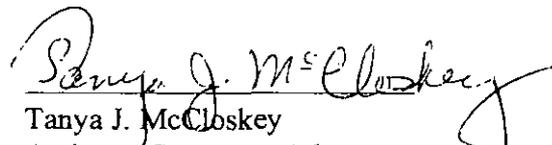
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December 1, 1998

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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James J. McNulty, Secretary
Pennsylvania Public Utility Commission
North Office Building, Room B-20
Harrisburg, PA 17105-3265

**Re: PECO Joint Petition for Full Settlement (Competitive Provider-Of-
Last-Resort Paragraph No. 38) Docket Nos. R-00973953 and
P-00971265**

Dear Mr. McNulty:

Enclosed are an original and 15 copies of PECO Energy Company's Comments in the above-referenced docket. As proof of filing, please return a date-stamped copy of this letter in the enclosed return envelope.

Sincerely,

Mary McFall Hopper

MMH/mtg

Enclosures

cc: John C. Miller, Jr., P.E.
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88034v10

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Assistant General Counsel

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**RE: PECO JOINT PETITION FOR :
FULL SETTLEMENT :
:
(COMPETITIVE :
PROVIDER-OF-LAST-RESORT :
PARAGRAPH NO. 38) :**

**Docket Nos.
R-00973953 and P-00971265**

COMMENTS OF PECO ENERGY COMPANY

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**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

Paul R. Bonney
Mary McFall Hopper
Assistant General Counsel
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2301 Market Street, S23-1
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Dated: December 1, 1998

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I. INTRODUCTION

On October 20, 1998, the Public Utility Commission (“PUC” or “Commission”) entered a Tentative Order soliciting comments on its proposed “Rules For Competitive Default Service,” which were appended to the Tentative Order as Annex A. The purpose of Annex A is to set forth standards and rules for the implementation of Paragraph No. 38 of the *Joint Petition For Full Settlement of PECO Energy Company’s Restructuring Plan And Related Appeals And Application For A Qualified Rate Order And Application For Transfer Of Generation Assets* (“Joint Petition”). Paragraph No. 38 provides that, as of January 1, 2001, 20% of all of PECO’s residential customers, as determined by random selection, will be assigned to a provider-of-last-resort/default supplier (“PLR”) other than PECO, who will be selected on the basis of a Commission-approved, market-price bidding process. This service was referred to as “competitive default service” (“CDS”). PECO is herein presenting its comments in response to the Commission’s solicitation.

II. OVERVIEW

By way of general introduction, it is important to emphasize that the CDS provider is much more than just another form of electric generation supplier (“EGS”). Rather, the CDS provider steps into the shoes of the electric distribution company (“EDC”) to become essentially the single point of contact with the customer.¹ While the EDC continues to furnish the transmission and distribution function, that service, in most respects, will be transparent to CDS

¹ Exceptions include where customers choose an EGS and request consolidated EGS billing or contact PECO regarding service reliability. The other notable exception will be the EDC’s rights and responsibilities to recover pre- CDS arrearages, as PECO proposes in Section III. A., *infra*.

customers, subject to limited exceptions, all transactions pertaining to electric service will be conducted between the CDS provider and CDS customers.

As the single point of customer contact, the CDS will be responsible for the entire range of customer interactions, including the thirteen areas outlined in the Commission's Tentative Order on *Guidelines For Maintaining Customer Services at the Same Level of Quality* ("Folder 11"), which became final on July 10, 1997. As more fully explained in Section III. C., *infra*, the potential CDS provider should be required to establish its capability to safely, efficiently, and reliably satisfy all of these customer service standards.

Additionally the CDS provider must demonstrate its capability to satisfy the requirements of PECO's Supplier Tariff including response times and formats for data exchange, in order to interact with PECO, as the transmission and distribution provider, and with EGSs, as generation suppliers. Adherence to these tariff requirements is crucial if the CDS provider is to furnish its customers the billing options that will be available to all other customers in PECO's service territory. Moreover, it is essential that the CDS provider have the ability to handle the Commission required electronic data interchange ("EDI") transactions in order to issue customer bills incorporating and displaying the appropriate distribution, transmission, and generation charges for "shopping" customers.

In addition to addressing these important customer care functions, the Commission's standards and rules should provide a simple, clear, and comprehensible basis for comparing CDS bidders' bid prices against PECO's rates and for assuring that (1) rate caps are not exceeded, and (2) there is no impermissible shifting of revenue responsibility between rate classes or among customers within a class.

While this overview touches upon the areas of paramount importance, PECO's comments also address other topics highlighted by the Commission in its Tentative Order, as outlined below.

PECO's comments are organized around the issues identified at pages 6 and 7 of the Tentative Order. Where necessary or appropriate, PECO will reference specific sections of Annex A. For the most part, PECO's comments are designed to assist the Commission in developing general standards for the implementation of CDS. PECO agrees with the Commission's view that the responsibilities, obligations and procedures for fulfilling the PLR function by a CDS provider will continue to be defined and made more specific through the Commission's on-going implementation at Docket No. M-00960890.F0017 (*see*, Annex A, Section T18 at p. 18).

III. COMMENTS

A. Chapter 56 Issues: Termination

At page 7 of the Tentative Order, the Commission suggests that PECO should continue to be responsible for the physical termination of customers who have been assigned to a CDS provider. PECO does not agree that the CDS provider should be relieved of the responsibility of physically disconnecting customers. It is technically and logistically possible for the CDS provider to do this work itself. Just as important, the portable revenue credit that the CDS provider will receive includes compensation for all of the costs of furnishing customer service consistent with the PLR function, including the cost of physical termination of customers. Therefore, in order for the CDS provider to receive the entire revenue credit the CDS would have to do physical terminations. Moreover, and as explained below, putting the responsibility for physical

termination of CDS customers with the CDS provider provides a more logical and more workable method for implementing Chapter 56 requirements in connection with the termination of customers for non-payment.

One of the more important issues in connection with CDS service is how to handle customers who have arrearages. The most practical and fairest approach is to implement a system of dual collection rights and responsibilities for the CDS provider and PECO. In the random selection process, customers selected for CDS service who have arrearages would begin service with the CDS provider with a "clean slate." PECO would retain collection responsibility for any PECO arrearage that was built up prior to the CDS customer's assignment. PECO would have the right, consistent with Chapter 56 of the Commission's regulations, to pursue its collection efforts, including termination of the customer's transmission and distribution service for non-payment of pre-CDS arrearage. PECO would have all of the rights and responsibilities, consistent with Chapter 56 of the Commission's regulations, including providing requisite notices and physically terminating the customer's service, under these circumstances.

While a customer is assigned to the CDS service, the CDS provider would be responsible for all billing and collection for current service, including billing and collection of PECO's transmission and distribution charges and transition charges, regardless of whether or not the customer is actually purchasing energy service from the CDS. The CDS provider will receive from PECO the revenue credit contained in Appendix J of the Joint Petition that includes recovery of uncollectible account expense and customer care costs. The CDS provider would be responsible for forwarding to PECO, within the permitted 25-day payment period, consistent with metering and billing specifications, amounts equal to the charges billed to the customer for

transmission and distribution service. If the CDS customer fails to pay the CDS provider any portion of its bill, including charges for transmission and distribution service, the CDS provider would have the right and responsibility to pursue collection efforts in conformity with the Commission's Chapter 56 regulations, including physical termination of the customer's service, if applicable.

Under the terms of Paragraph 38 of the Joint Petition, CDS customers can choose to return to PECO for their PLR service. Customers who have built up an arrearage with the CDS provider would come back to PECO with a "clean slate." The CDS provider would retain responsibility to recover the arrearage built up while the customer received CDS service. The CDS provider would have all of the rights and responsibilities, consistent with Chapter 56 of the Commission's regulations, to pursue the collection of the arrearage, including providing requisite notices and physical termination of the customer's service.

B. Market Price And Rate Cap Issues

PECO agrees with, and supports, the requirement set forth in Section S3 of Annex A, which states: "Bids must reflect a clear correlation to PECO's residential rates and shall maintain the same cost allocation among the rates as contained in the Settlement." In applying this standard, the Commission should require that the CDS provider state its bid prices in a manner that conforms to the same structure (i.e., including blocking) as PECO's Rates R and RH (including the off-peak provision), RS (residential offering), RT and CAP. In this way, the Commission can assure an appropriate "apples-to-apples" comparison of all bids relative to PECO's rates.

Additionally, the Commission should require that each CDS provider set forth in its bid documents a comparison of its rates, by the rate categories identified above, that conforms to the “residential bill comparisons” data requirement of the Electric Utility Filing Regulations at 52 Pa.C.S. § 53.53, Exhibit C, IV., Rate Structure And Cost Allocation, D.1. Consistent with this regulation, each CDS bidder should provide a chart or tabulation showing the difference, on both a dollar and percentage basis, between its bid prices and PECO’s comparable rates for each rate category, for monthly bills ranging from usage of zero kilowatt hours to 5,000 kilowatt hours at appropriate intervals. The data presented in this fashion should clearly indicate that the CDS provider's prices are below the rate caps set forth in the Joint Petition for each rate classification at each rate interval.

C. Pre-Qualification Of Potential CDS Suppliers

PECO agrees with the Commission’s view that the technical and financial fitness of the potential CDS provider is one of the most important issues to be addressed in the implementation of CDS service. PECO also believes that Annex A has captured in generic fashion most of the information and documentation that a CDS bidder should provide to demonstrate its technical and financial fitness. In Section PQ7 of Annex A, the Commission requests CDS bidders to describe the manner in which “customer care functions will be accomplished, including: billing, call taking and the capability to handle the volume of potential customers.” PECO agrees with this requirement but believes that it should be broadened and made more specific. In particular, CDS bidders should put forth a plan demonstrating, to a reasonable degree of specificity, how they will accomplish each of the responsibilities and duties that must be assumed by a CDS provider carrying out the PLR function, including the following:

Code Provisions

52 Pa. Code - Chapter 54 - Electric Generation Customer Choice

52 Pa. Code - Chapter 55 - Non Carrier Rates and Practices

52 Pa. Code - Chapter 56 - Standards and Billing Practices for Residential Utility Service

52 Pa. Code - Chapter 57 - Electricity Service

52 Pa. Code - Chapter 58 - Residential Low Income Usage Reduction Program

52 Pa Code - Chapter 69 - General Orders, Policy Statements and Guidelines on Fixed Utilities

Rulemakings

Establishment of Competitive Safeguards for the Pennsylvania Electric Industry (Docket L-980132)

Ensuring Customer Consent to Change of Electricity Suppliers (Anti-Slamming) (Docket L-970121)

Guidelines for Universal Service and Energy Conservation Programs (Docket M-0096-0890F0010)

Standards for Electronic Data Transfer and Exchange Between Electric Distribution Companies and Electric Generation Suppliers (DocketM-00960890F0015)

Each CDS bidder's plan should state, in reasonable detail, how it will meet staffing and personnel requirements, including any initial and ongoing training and educational programs; telecommunications systems; whether it intends to provide advanced metering to its customers; data storage, recovery and transmission systems; arrangements with outside contractors; if any, and designation of individuals for initial and ongoing contact with the Public Utility Commission and PECO. Additionally, PECO believes that the CDS provider should be responsible for the physical termination of customers, as explained above. Therefore, CDS bidders should set forth their technical capability, plans and procedures for physical termination. This should include an explanation of whether its own employees will be used for this function or a third-party contractor

and, if the latter, the screening, training and bonding requirements the CDS bidder will impose on the third-party contractor.

D. Time Period Encompassed By The Bid

Section S2 of Annex A states that the bid period should be not less than one year and not more than three years. PECO believes that bid periods as short as one year would not be practicable. PECO recommends that the Commission specify an initial bid period longer than one year and preferably as long as three years.

E. Renewable Resource Base Necessary For Bid

The Commission's Tentative Order requires all bidders on the Competitive Default Service function to include as part of their pre-qualification bid package a "[p]reliminary description of the CDS bidder's renewable resources and plan for ensuring that the renewable conditions of the settlement are met." This requirement for renewable resources originates as a condition on CDS contained in PECO's Settlement Agreement. However, the language of the Commission's order needs to be augmented in several ways in order fully to reflect the terms governing CDS Service under PECO's Settlement.

First, the description must identify renewable resources that would amount to "at least 2.0% of its energy supply for CDS service for the first year of CDS service." To ensure ongoing compliance with the renewable energy standard, the PUC should require the CDS to document how the net output of its renewable resources meets or exceeds its minimum annual obligation.

Second, the CDS bidder must adequately identify qualifying renewable resources. Under the Settlement Agreement, such resources are “solar, wind, sustainable biomass (including landfill gas but excluding incineration of Municipal Solid Waste),” geothermal or ocean power.”

Settlement Agreement, ¶ 38.b. Adequate identification requires at a minimum that the CDS bidder provide the Commission with a reasonable itemization of its resources that will also include operational considerations such as availability and deliverability which will affect the quantity of renewable resources that can serve CDS customers. Specifically, for each renewable resource identified, the itemization should contain the following information:

- the identity and location of the unit;
- a statement as to whether the unit is inside or outside of the PJM Control Area;
- the type of renewable energy to be supplied by the unit (e.g. wind, solar, sustainable biomass);
- the source of the bidder’s right to call upon the unit (e.g., ownership or contract);
- the total MW of load the bidder has a right to receive from the unit;
- the expression of the unit’s operational availability as a percentage (e.g., unit is available 50% of the time) and a description of operational conditions underlying that percentage (e.g., solar units are not operational on cloudy days); and
- if the unit is located outside of the PJM Control Area, a statement as to whether, and to what extent, the output of the unit is deliverable to the PJM Control Area in accordance with standards utilized by the PJM system operator.

In-order to capture this detailed information, PECO proposes that the Commission require EGSs to complete and submit a disclosure statement.

Information on availability and deliverability should be a required part of any CDS bid submission. Availability is important because a renewable resource that is unavailable cannot be dispatched to serve load in PJM. Moreover, availability problems will limit the environmental benefits that can be derived from the deployment of renewable resources. For existing units more than one year old, availability should be assessed on the basis of the unit's historical performance. For units less than a year old, the CDS bidder should rely on the manufacturer specifications and engineering studies.

Similarly, a renewable unit's deliverability must also be considered. Indeed, to the extent that the energy produced by a renewable resource is undeliverable to the PJM Control Area, it cannot in fact serve any portion of PECO's residential load. A renewable energy resource of a CDS bidder cannot be included in satisfying the 2% renewable requirement to the extent that the energy it produces cannot be delivered to the PJM Control Area. Thus, in calculating the contribution of a renewable resource to satisfying the 2% renewable resource requirement, an adjustment must be made for the unit's availability and deliverability characteristics.

F. Customer Information

As explained in Section C, *supra*, the CDS bidder should be required to submit with its bid document a plan for implementing all of the requirements for disseminating necessary and appropriate information to customers through their bill inserts or otherwise, in conformity with

the responsibilities and duties that are imposed upon electric utilities under the Commission's applicable regulations, policy statements and orders.

G. Financial Integrity Of Bidders

PECO, in general, agrees with and supports the pre-qualification requirements set forth in Annex A on the topic of financial integrity. However, additional information should be required from CDS bidders regarding their financial fitness and, in particular, bidders should be required to submit financial statements adequate to properly present their current and expected future financial condition. At a minimum, they should include a balance sheet dated not more than three months prior to the date of the bid, an income statement for the 12-month period ending not more than 3 months prior to the date of the bid and a statement of cash flow (sources and uses of funds) for the 12-month period ended not more than 3 months prior to the date of the bid. If the CDS bidder is a newly formed entity, similar financial reporting requirements should be imposed for its parent and, if applicable, grandparent(s). If the CDS bidder is part of a partnership, joint venture or strategic alliance, similar financial reporting requirements should be imposed for all members of the team. Additionally, if the CDS bidder is a newly formed entity, the Commission should impose guidelines for requisite minimum capitalization, including commitments for additional cash infusions by its parent corporation(s), which may be required to ensure that the CDS bidder has sufficient funds to meet its obligations as a CDS, to ensure safe and reliable service to customers and to ensure full and complete compliance with applicable laws, regulations, orders and policy statements of the Commission. Additionally, this type of financial information is necessary, and must be carefully considered by the Commission, in determining the appropriate bonding requirements for the CDS.

H. CDS Code Of Conduct

Because the CDS provider will be a PLR, it will essentially stand in the shoes of the EDC with respect to the provision of PLR service for its assigned customers. Accordingly, the CDS provider should be subject to the same code of conduct with respect to its interaction with affiliated companies, including affiliated EGSs, as apply to an EDC.

I. Selection Criteria For CDS Customers

Section T10 of Annex A provides: "The initial random selection of customers to be assigned to the CDS will be made by lottery as used by PECO EDC in its Pilot Program." PECO agrees with and fully supports this customer selection procedure. Consistent with the manner of customer selection used in the Pilot Program, the EDC will conduct a random selection of 20% of the customers within each residential rate classification.

J. Selection Criteria For CDS Providers

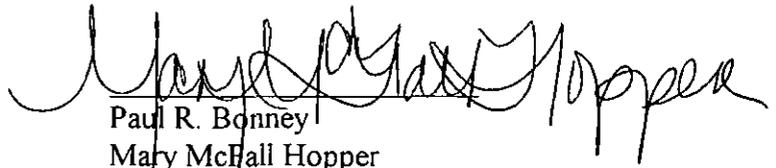
The Commission should assure full compliance with all of the pre-qualification standards set forth in Annex A and proposed by PECO herein in order to assure that the CDS provider selected by the Commission can perform the duties expected of a PLR and to which its customers are entitled.

Selection of the winning CDS bid should be on the basis of the prices offered by qualified bidders. In order to assure an accurate and fair selection process, a clear, consistent, and understandable bid format must be adopted which incorporates the requirements proposed by PECO in Section III. B., *supra*.

IV. CONCLUSION

PECO appreciates the opportunity to provide comments on the Commission's proposed rules and standards for implementing CDS service. PECO looks forward to working cooperatively with the Commission, CDS bidders and the ultimate CDS provider selected by the Commission to achieve a further definition and refinement of the terms, conditions and procedures for the implementation and provision of CDS service.

Respectfully submitted,



Paul R. Bonney
Mary McFall Hopper
Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
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215-841-4257

Dated: December 1, 1998

Stephen L. Feld
Senior Attorney

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December 1, 1998

via Federal Express

Mr. James McNulty
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Harrisburg, PA 17105-3265

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**Re: PECO Joint Petition for Full Settlement,
Competitive Provider of Last Resort
(Paragraph 38)
Docket Nos. R-00973953 and P00971265**

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Secretary McNulty:

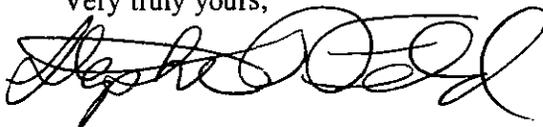
This letter and the attached fifteen (15) copies constitute Pennsylvania Power Company's ("Penn Power") comments on the Tentative Order entered October 20, 1998 in the above docket.

Penn Power initially states that it joins in and supports the comments of the Pennsylvania Electric Association filed in this docket. Penn Power also has one additional comment that it makes because it was not a party to the PECO restructuring case or the PECO settlement.

The Commission should make clear in its final order in this docket that the order is applicable only to PECO and Competitive Default Suppliers ("CDS") under PECO's settlement. Other Electric Distribution Companies (EDCs) have different restructuring orders and/or settlement provisions relating to CDS service. Any order in the PECO proceeding on CDS should not be applicable to the other EDCs, including Penn Power, given the different orders, not all of which address CDS service or address it in the same way.

As stated above, Penn Power was not a party to the PECO restructuring proceeding and had no opportunity to participate in issues relating to CDS service, particularly paragraph 38. Of course, due process requirements dictate that all persons affected by a PUCO order be given the opportunity to participate. Paragraph 38 underlies the Tentative Order and no such opportunity was afforded to Penn Power. Penn Power, therefore, retains all of its rights to contest the applicability to Penn Power of any final order in this docket.

Very truly yours,



sf
enclosures

cc: John A. Miller, CEEP
OCA
OSBA

ORIGINAL



**Pennsylvania
Electric
Association**

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Harrisburg, Pennsylvania 17102
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James M. Cunningham
President

ORIGINAL

December 1, 1998

James J. McNulty, Esquire
Secretary
Pennsylvania Public Utility Commission
North Office Building
P. O. Box 3265
Harrisburg, Pennsylvania 17105-3265

**DOCUMENT
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PA.P.U.C.
SECRETARY'S BUREAU

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SECRETARY

**RE: Request for Comments – Proposed Procedures
For Implementing Paragraph 38 of
PECO's Joint Petition for Full Settlement
(Relating to Competitive Provider of Last Resort)
Docket Nos. R-00973953 and P-00971265**

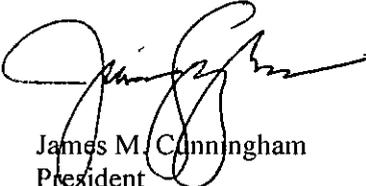
Dear Secretary McNulty:

The Pennsylvania Electric Association (PEA) respectfully submits the following comments on the above-captioned matter on behalf of its member companies:

Allegheny Power
Duquesne Light Company
Metropolitan Edison Company and Pennsylvania Electric Company d.b.a. GPU Energy
PECO Energy Company
Pennsylvania Power Company
PP&L, Inc.
UGI Utilities, Inc.

Enclosed are an original and fifteen copies.

Sincerely,



James M. Cunningham
President

JMC:klm

CC: The Honorable John M. Quain, Chairman
The Honorable Robert F. Bloom, Vice Chairman
The Honorable David W. Rolka, Commissioner
The Honorable Nora Mead Brownell
The Honorable Aaron Wilson, Jr., Commissioner

Tanya J. McCloskey, Esq.
Bernard A. Ryan, Jr., Esq.
Charles F. Hoffman, Esq.
John C. Miller, Jr., Bureau of CEEP

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ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RE: PECO JOINT PETITION FOR FULL SETTLEMENT : Docket Nos.
(COMPETITIVE PROVIDER OF LAST RESORT - PARAGRAPH NO. 38) : R-00973953 & P-00971265

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COMMENTS OF THE PENNSYLVANIA ELECTRIC ASSOCIATION

I. **DOCUMENT FOLDER**
INTRODUCTION

In a Tentative Order entered on October 20, 1998, the Pennsylvania Public Utility Commission ("Commission") set forth for public comments its proposed procedures for implementing Paragraph 38 of PECO's Joint Petition for Full Settlement. Paragraph 38 concerns the selection of a competitive provider of last resort. In its order the Commission established a thirty-day comment period, which was extended until December 1, 1998.

The Pennsylvania Electric Association ("PEA") on behalf of its member companies: Allegheny Power, Duquesne Light Company, Metropolitan Edison Company and Pennsylvania Electric Company d.b.a. GPU Energy, Pennsylvania Power Company, PP&L Inc., PECO Energy Company and UGI Utilities, Inc., hereby files the following comments to the Commission's Tentative Order. These comments reflect the PEA member companies' concerns primarily from their perspective as Electric Distribution Companies ("EDCs").

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As noted above, this proceeding arises from the PECO Joint Petition for Full Settlement and will result in procedures applicable only in PECO's service territory. Although this proceeding is not a statewide rulemaking, in responding to the Commission's request for comments to the Commission's Tentative Order, PEA and its member companies have identified several broad issues of importance to the Commission. These issues are: the technical fitness of the Competitive Default Supplier ("CDS"), which includes the ability of the CDS to adequately handle customer care and billing issues and the terms on which a customer may return from CDS to PLR service provided by PECO.

II. TECHNICAL FITNESS OF THE CDS

The Commission, the PEA member companies, and electric generation suppliers (EGSs) all realize the significance of the technical capabilities needed to operate in the competitive generation market developing in this Commonwealth. One of the most important lessons learned from the retail access pilot program was the importance of the technical ability of the EGS and the EDC to transmit and process customer data. This issue will continue to be of concern to all involved in retail electric competition. All potential CDS providers must demonstrate to the Commission their technical ability to assume this important role. Two very important areas associated with technical fitness are customer care functions and billing.

A. Customer Care

Annex A of the Commission's Tentative Order provides that a "CDS bidder must describe the manner in which customer care functions will be

accomplished.” (PQ7, p. 13). Customer care functions are defined as billing, call taking and the capability of the CDS to handle the volume of customer inquiries. PEA submits that the roles of the CDS in assuming the customer care functions currently provided by PECO is extremely important. It is essential that the bidding and selection procedures for the CDs include a thorough description by the potential CDS of its ability to handle these important functions. In addition, the process must include a thorough review by the Commission of the CDS’s ability to handle these functions properly and to ensure that the quality of customer service to those customers does not deteriorate.

Quality customer service is a primary focus of the Commission in the development of the competitive market for generation service. Shortly after the Electric Generation and Customer Choice and Competition Act (“Competition Act”) was enacted, the Commission issued a Tentative Order addressing guidelines for Maintaining Customer Services at the Same Level of Quality. (“Folder 11”)¹ Folder 11 lists thirteen areas of interactions that involve residential customers. PEA submits that a potential CDS must address and prove its capability to adhere to all the customer service standards of the Commission.

B. Billing

The CDS provider is responsible for all billing and collection functions for those customers assigned to the CDS. This would include billing and collection of PECO’s transmission and distribution charges. Therefore, it is important that

¹ At its July 10, 1997 Public Meeting, the Commission adopted its Final Order for Maintaining Customer Services at the Same Level of Quality Pursuant to 66 Pa.C.S. §2807(D), and Assuring Conformance with 52 Pa. Code Chapter

the CDS adequately demonstrate to the Commission its ability to adhere to the Commission's billing regulations and Appendix C of PECO's Joint Settlement. In addition, the CDS must be able to comply with the requirements of PECO's Supplier Coordination Tariff, which relate to competitive billing.

PECO's Supplier Coordination Tariff contains detailed requirements, including response times and formats for data exchange. Adherence to these detailed requirements is crucial if the CDS is to provide customers with the billing options available to customers in PECO's service territory under the Competition Act and PECO's Joint Settlement. A CDS must be equipped to handle the EDI transactions regarding issuance of a bill with the appropriate distribution, transmission and generation charges. The CDS must be able to follow the dispute handling processes designed for customers who choose an alternative generation supplier.

Annex A of the Tentative Order suggests that the CDS abide by the billing specifications as they apply to an EGS. The responsibility of a CDS is significantly greater than the role of an EGS. PEA suggests that the CDS is a substitute for PECO in providing billing services to customers assigned to the CDS. *Consequently, the CDS's role expands beyond that of an EGS only providing generation service.* The CDS must be able to transact with PECO and the EGS who may be serving the customer assigned to the CDS.

III. RETURNING FROM CDS TO PECO PLR.

PLR service was established to guarantee generation service for those customers “who do not choose or cannot choose to purchase from alternate suppliers” (PECO Settlement, Paragraph 38). By definition, PLR service is not intended to provide a mechanism for more sophisticated customers to leverage their position in the marketplace or shelter themselves from that market during high-cost periods. Such customers are neither customers who cannot choose nor customers who choose not to participate in the market and, therefore, they should not have the protection of the generation rate cap under these circumstances.

The volatility in the wholesale electricity markets was evident during June 1998. Such volatility places extraordinary risk on the CDS or EDC providing PLR service, *which must procure generation for returning customers under capped rates, with as little as fifteen (15) days notice.* The EDC or the CDS has limited protection against gaming of PLR service under existing tariffs.

Customers should not be permitted to exploit PLR or CDS service to avoid the market during high-cost periods. Certain EGSs currently offer contractual arrangements that encourage this practice. Permitting industrial and commercial customers to return to PLR service during high-cost periods may discourage EGSs from bidding on CDS service under capped rates. The EDC and CDS should be granted explicit protections under the rules promulgated for PLR and CDS service to guard against such practices.

IV. CONCLUSION

PEA respectfully requests that the Commission consider its comments in formulating the rules and standards for implementing the competitive provider of last resort provision of PECO's Joint Petition for Full Settlement.

Respectfully Submitted,


James M. Cunningham

Date: 12-1-98

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SECRETARY'S BUREAU



Mark R. Dingman
Vice President and General Manager

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400 Stewart Road
Post Office Box 3200
Wilkes Barre, PA 18773-3200
(717) 819-1212 Telephone

December 1, 1998

DOCUMENT FOLDER

Via Federal Express

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Avenue and North Street
P.O. Box 3265, North Office Building
Harrisburg, PA 17105-3265

**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 for filing in the above-captioned matter, please find an original and fifteen (15) copies of the comments of UGI Utilities, Inc. - Electric Division.

Also enclosed is a copy of this letter, which should be date-stamped and returned in the enclosed stamped, self-addressed envelope.

Sincerely,

swd/plw
Enclosures

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF
UGI UTILITIES, INC. – ELECTRIC DIVISION

UGI Utilities, Inc. – Electric Division (“UGI” or the “Company”) submits the following comments in response to the Pennsylvania Public Utility Commission’s (“Commission”) Tentative Order in the above captioned matter adopted at its public meeting of October 16, 1998 at Docket Nos. R-00973953 and P-00971265. These comments are intended to support and supplement those submitted by the Pennsylvania Electric Association (PEA).

Please note that the arguments presented here by UGI are germane to only this Tentative Order and may not be applicable to similar orders issued by the Commission in any future case(s) or settlement agreement(s) before them.

I. Technical Fitness of the Competitive Default Supply (CDS) Provider:

All parties participating in the competitive generation market must be technically fit if the market is to be successful. Paramount among these issues is the ability of all parties to transmit and process customer data. The Commission has established detailed requirements for the exchange of data between participating parties, including response time and formats. Adherence to these requirements is crucial if the CDS Provider is to furnish customers with the billing options mandated by the Electric Generation Customer Choice & Competition Act (Act). In addition a CDS Provider must be equipped to handle the Electronic Data Interchange (EDI) transactions necessary to issue a bill with the appropriate distribution, transmission, and generation charges. These issues will continue to be of concern to all the parties involved in retail electric competition. As a result the Commission must require potential CDS Providers to demonstrate their technical ability to perform these important functions, including compliance with all EDI standards.

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II. Customer Cares:

The Commission's Tentative Order provides that:

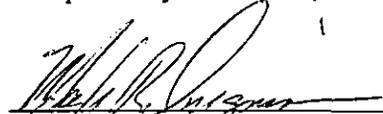
“CDS bidders must describe the manner in which customer care functions will be accomplished, including billing, call taking and the capability to handle the volume of potential customers.”

It is essential that the bidding and selection procedures established by the Commission for CDS Providers include a thorough description by the potential CDS Provider of its ability to handle these very important customer service issues. In addition, the bidding process must include a complete review by the Commission of the potential CDS Provider's ability to handle these functions properly and in accordance with all Commission regulations, in particular Chapter 56. Maintaining customer service at current levels should be the primary focus, and one of the major goals, of the Commission since Section 2809(E) of the Act requires that customer service cannot be allowed to deteriorate under retail competition. As a result the potential CDS provider must be required to address and prove to the Commission its capability to adhere to all the customer service standards that have been imposed on electric distribution companies by the Commission.

III. CDS Provider Code of Conduct:

The selected CDS Provider will assume the role of provider of last resort for the electric distribution company(s) (EDC) customers they are serving. Therefore the CDS Provider must be subject to a code of conduct similar to that imposed on the EDCs. The Commission must require CDS Providers to abide by a Code of Conduct with respect to their interactions with affiliated companies, in particular affiliated electric generation suppliers.

Respectfully submitted,



Mark R. Dingman
Vice President and General Manager
UGI Utilities, Inc. – Electric Division