

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania 17120**

**Pike County Light & Power Company  
Petition for Approval of its Default  
Service Plan**

**Public Meeting held April 15, 2021  
3022988-ALJ  
Docket No. P-2020-3022988  
P-2018-3002709**

**STATEMENT OF CHAIRMAN GLADYS BROWN DUTRIEUILLE**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the proposed Settlement of Pike County Light & Power's (Pike or the Company) Petition for Approval of its Default Service Plan (DSP). This DSP Settlement provides that Pike's default service energy supply will be procured via a series of short-term hedging contracts coupled with spot market purchases. Further, the Settlement permits Pike to solicit brokers and counterparties to procure necessary Alternative Energy Portfolio Standards (AEPS) credits during the term of the plan.

This DSP largely mimics the Company's existing plan. I dissented on Pike's existing plan since it failed to include any long-term contracts and failed to empirically substantiate the omission of long-term contracts.<sup>1</sup> Here again, the Company's plan and the associated Settlement fail to meet what I proffer is the necessary measure of compliance with the Public Utility Code and case precedent.

Under Act 129, electric generation procured to serve default service customer load "shall include a prudent mix" of the following: (1) spot market purchases, (2) short-term contracts (less than four years in length), and (3) long-term purchase contracts (generally between four and twenty years in length). 66 Pa. C.S. § 2807(e)(3.2).

The Commonwealth Court has previously ruled that the Commission acted within the bounds of Act 129 when the Commission approved Pike's 2011 default service filing that included no short-term or long-term contracts.<sup>2</sup> *Popowsky v. Pa. PUC*, 71 A.3d 1112 (Pa. Cmwlth. 2013)). In *Popowsky* the court determined that the Commission's approval of a spot market only procurement in light of the prudent mix standard was lawful since the Commission properly considered the possibility of

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<sup>1</sup> Proceeding at Docket P-2018-3002709

<sup>2</sup> *Petition of Pike County Light & Power Company for Approval of Its Default Service Implementation Plan*, Docket No. P-2011-2252042 (Order entered May 24, 2012).

including short-term contracts (including financial hedges) and determined it was not prudent to do so. *Popowsky*, 71 A. 3d 1112, 1118.<sup>3</sup>

The record here does not reflect that the same consideration was given in this proceeding. As acknowledged by the court in *Popowsky*, “the Preamble to Act 129 indicates that price stability was one of the goals to be achieved by that act, and that price instability was one of the harms the act was intended to ameliorate ...” 71 A.3d 1112, 1117. The Court ultimately determined that the Commission had not discounted the importance of price stability, and that the Commission concluded that the additional benefits of a financial hedge would not be justified by the additional costs. 71 A.3d 1112, 1118.

Pike has failed to appropriately support its omission of long-term contracts. Such products could be energy tranches or energy blocks. Further, and potentially even more practical, long-term contracts for AEPS credits could be utilized by Pike.<sup>4</sup>

Since the instant proceeding fails to include any long-term contracts, and fails to empirically substantiate the omission of long-term contracts, I must respectfully dissent from approval of the settlement.

In closing, consistent with Act 129, I respectfully ask Pike and all other electric distribution companies (EDC) to include long-term contracts in their default service portfolios. To the extent long-term contracts are not utilized, I ask those EDCs to include empirical data supporting the omission. Finally, I also encourage Pike to consider amending its DSP in the future to include long-term contracts.

**April 15, 2021**  
**Date**



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**Gladys Brown Dutrieuille, Chairman**

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<sup>3</sup> Appendix A of Pike’s 2011 DSP filing included an analysis on the cost of hedges - Docket P-2011-2252042.

<sup>4</sup> Contracts for SRECs of 5 to 20 years in length would be consistent with the Commission’s Policy Statement regarding contracts for the purchase of SRECS by EDCs at 52 Pa. Code § 69.2904.