

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Citizens' Electric Company :
of Lewisburg, PA and Wellsboro Electric : P-2024-3049357
Company for Approval of Default Service Plan : P-2024-3049359
and Waiver of Commission Regulations for :
the Period June 1, 2025 Through May 31, 2029. :

RECOMMENDED DECISION

Before
Conrad A. Johnson
Administrative Law Judge

INTRODUCTION

This decision recommends approval of a full settlement relating to a petition for a joint default service program filed by two electric distribution companies pursuant to the Electricity Generation Customer Choice and Competition Act because the settlement meets all the requirements of the Public Utility Code, is supported by substantial record evidence and is in the public interest.

HISTORY OF THE PROCEEDING

A. **Joint Petition filed by Joint Petitioners**

On May 31, 2024, Citizens' Electric Company of Lewisburg, PA (Citizens) and Wellsboro Electric Company (Wellsboro) (collectively the Companies or Joint Petitioners) filed a Joint Petition with the Pennsylvania Public Utility Commission

(Commission or PUC) for approval of their Seventh Joint Default Service Program (DSP VII or DSP VII Petition), pursuant to the Electric Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2801 et seq. (Competition Act), as amended by Act 129 of 2008 (Act 129), the Commission's Default Service Regulations, 52 Pa. Code §§ 54.181 – 54.189,¹ and the Policy Statement on Default Service (Policy Statement), 52 Pa. Code §§ 69.1801 – 69.1817. Through the filing,² Citizens and Wellsboro propose to continue, in substantial part, the procurement structure and rate design that were approved in the existing Sixth Joint DSP, as amended.

Citizens' and Wellsboro are two small jurisdictional electric distribution companies in Pennsylvania. The stock of both Companies is wholly owned by C&T Enterprises, Inc. (C&T). C&T is a holding company that is jointly owned by Tri-County Rural Electric Cooperative and Claverack Rural Electric Cooperative. Citizens provides service to approximately 7,143 customers in Lewisburg and the surrounding area; 5,945 of these are residential customers, with the remaining 1,198 consisting of commercial, industrial and lighting accounts. Citizens has a peak load of approximately 52 MW. Wellsboro is of similar size, serving approximately 6,456 customers, 5,155 of which are residential, and 1,301 of which are commercial, industrial, resale or lighting. Wellsboro's peak load is approximately 18.6 MW. Citizens' is located in the PPL Electric Utilities (PPL) transmission zone, while Wellsboro is located in the

¹ See Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2), Docket No. L-00040169 (Order entered May 10, 2007) (First Rulemaking Order); See Implementation of Act 129 of October 15, 2008; Default Service and Electric Markets, Docket No. L-2009-2095604 (Order entered Oct. 4, 2011) (Second Rulemaking Order).

² During the prehearing conference held in this proceeding on July 9, 2024, the filing, that is, the Joint Petition was marked for identification as CW Exhibit No. 1. Tr. 21-24.

Pennsylvania Electric Company (Penelec) transmission zone.³

The Companies propose to maintain the same Procurement and Implementation Plan that was approved by the Commission in the Sixth Joint DSP.⁴ Under the Procurement and Implementation Plan, the Companies propose to conduct a competitive bid process and enter into Load-Following Full Requirements (Load-Following FR) contracts with one or more wholesale suppliers to serve all default service customers. Each Company will independently select one wholesale supplier; the Companies may be served by the same supplier or different suppliers depending on the lowest qualifying bid for each territory. Wellsboro's supplier will serve all of Wellsboro's wholesale needs. Citizens' supplier will supply all Citizens' wholesale needs.

The Companies request one change to the Procurement and Implementation Plan. Specifically, the Companies propose to allow same day triggers of the wholesale energy component of the fixed default service rate. Currently, Citizens and Wellsboro provide their wholesale suppliers with a day-ahead notice of the trigger date. According to the Companies, moving to a same day trigger will reduce the likelihood of wholesale energy market fluctuations between the time that the trigger notice is given and the lock-in of the wholesale energy price. The Companies assert that this change is discussed in more detail in the testimony of Mr. Byron (Barney) Farnsworth, Jr. CW Statement No. 1.

³ CW Exhibit 1, ¶ 1. As a result of a January 1, 2024 merger, PPL and Penelec merged into FirstEnergy of Pennsylvania Electric Company with their own separate and rate district.

⁴ *See, Joint Default Service Plan for Citizens Elec. Co., PA and Wellsboro Elec. Co. for the Period June 1, 2021 Through May 31, 2025* Docket Nos. P-2020-3019383, P-2020-3019384 (Order entered October 29, 2020).

The Joint Petitioners assert that Rate Design Plans will remain the same. The Joint Petitioners maintain that current Commission-approved Generation Supply Service Rate (GSSR) for each company will continue to calculate the price of default service supply, including the GSSR-1 fixed price option for residential and small commercial customers and the GSSR-2 hourly priced option for large customers. Finally, the Companies also propose to maintain their non-bypassable Customer Choice Support (CCS) Riders that have been effective since 2014. For both companies, the CCS Riders will remain available for appropriate costs approved by the Commission for recovery by the Companies.

To implement the Seventh Joint DSP, the Companies request waivers as contemplated by Section 54.185(g) of the Commission's Regulations. The Companies claim that the proposed waivers are similar to waivers approved by the Commission in the Companies' Sixth Joint DSP. These proposed waivers, set forth in the Companies' Appendix D to the Petition, include requests to establish a four-year DSP for the period June 1, 2025, through May 31, 2029, and to offer Hourly Priced Service (HPS) only to large commercial and industrial (C&I) customers with a registered peak demand at or above 400kW. The Companies contend that approval of the waivers will enable the Companies to continue to offer market-based default service products in a manner appropriate for their current circumstances.

The Companies assert that with a similar market-based procurement approach, rate design, and requested waivers, they believe that the Seventh Joint DSP satisfies the directives from the End State Order and remains consistent with the Competition Act, Act 129, and the Commission's Default Service Regulations.

B. OSBA's and OCA's Notice of Appearances

On June 5, 2024, the Joint Petition was assigned to me as the presiding Administrative Law Judge (ALJ) for investigation and the scheduling of hearings. On the same date, I directed counsel for the Joint Petitioners to consult with the statutory parties to decide upon a mutually convenient date and time to participate in a prehearing conference. On June 7, 2024, counsel for the Commission's Bureau of Investigation and Enforcement (BIE), via email, informed me and the other parties, that BIE did not intend to participate in this proceeding.

On June 13, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance in this proceeding, and on June 20, 2024, the OSBA filed a Notice of Intervention. On June 20, 2024, the Office of Consumer Advocate (OCA) filed a Notice of Appearance and an Answer to the Companies' Petition.

C. Prehearing Conference, Memorandums and *Pennsylvania Bulletin* Publication

By Notice dated June 20, 2024, the Parties were informed a Call-In Telephonic Prehearing Conference was scheduled before me for July 9, 2024, at 10:00 a.m. The Notice outlined the procedure to follow to participate in the prehearing conference.

On June 20, 2024, I issued a Prehearing Conference Order concerning regulations pertaining to prehearing conferences, 52 Pa. Code §§ 5.221-5.224, and I directed the Parties to submit their respective Prehearing Memorandums by July 5, 2024. The Prehearing Order also informed the Parties that failure to participate in the

prehearing conference would result in dismissal of their case and removal from the Service List, which was attached to the order.⁵

Notice of the Companies' Default Service Plan Petition was duly published in the *Pennsylvania Bulletin*, informing the public that formal protests, petitions to intervene and answers must be filed in accordance with Title 52 of the Pennsylvania Code, on or before July 8, 2024. *See* 54 Pa.B. 3604 (June 22, 2024). The Notice also set forth the date, time and procedure to follow to participate in the prehearing conference.

On July 3, 2024, Joint Petitioners and OCA filed their respective Prehearing Memorandum. On July 5, 2024, OSBA filed its Prehearing Memorandum.

The prehearing conference proceeded as scheduled. Respective counsel for the Companies, OCA, and OSBA participated in the prehearing conference, which resulted in the establishment of a litigation schedule.

D. Hearing Notice, Prehearing Order and Settlement-in-Principle

On July 16, 2024, an Initial Telephonic Hearing Notice was served upon the Parties informing them that hearings via telephone were scheduled before me on September 25 and 26, 2024. On the same date I issued a Prehearing Order identifying the Companies, OCA, and OSBA as the Parties to this proceeding and confirming the litigation schedule.

On August 9, 2024, via email, the Companies notified me that the Parties had reached a settlement-in-principle. As result, via email, on August 12, 2024, I

⁵ Although, BIE had indicated that it did not intend to participate in this proceeding, BIE was included as a Party on the Service List and served with a copy of the Prehearing Order.

informed the Parties the litigation schedule was suspended, in part, as to the due dates for further written testimonies. However, the evidentiary hearing would convene as scheduled.

E. Motion for Admission of Evidence and Joint Settlement Petition

On September 24, 2024, the Companies filed a Motion for Admission of Evidence (Motion). The Companies moved for admission into the evidentiary record of the documents and findings identified in the Stipulation for Admission of Evidence (Stipulation) attached as Appendix A to the Motion. The Companies asserted that the Motion and the Stipulation were being submitted in conjunction with the Settlement reached between Citizens, Wellsboro, the OCA, and OSBA. Attachment 1 and Attachment 2 were attached to Appendix A. Attachment 1 listed the respective written testimonies and exhibits of the Companies and OCA. Attachment 2, Stipulated Findings of Fact, listed nine findings agreed to by the Parties.

On September 24, 2024, the Companies, OCA, and OSBA, as Joint Petitioners, filed a Joint Petition for Settlement of Citizens' Electric Company of Lewisburg, PA's and Wellsboro Electric Company's Joint Default Service Plan (DSP VII) (Settlement Petition).

F. Evidentiary Hearing, Admission of Filings and Closing the Record

On September 25, 2024, an evidentiary hearing was held in this proceeding, during which the written testimonies and exhibits set forth in Appendix A, Attachment 1 and the Statements in Support of the Settlement Petition of the Companies and OCA, respectively, were admitted into the record.

On September 27, 2024, OSBA filed its Statement in Support of the Settlement Petition.

On December 12, 2024, I issued a Second Interim Order Admitting Filings Into The Record And Closing The Record. Under the Second Interim Order, the Stipulation, OSBA's Statement in Support of the Settlement Petition, and the Settlement Petition were admitted into the record and the record was closed.

This case is now procedurally ready for ruling.

TERMS OF SETTLEMENT

The principal terms of the Settlement are set forth verbatim as follows.⁶

9. The Companies will implement a GSSR-2 E-factor on a pilot basis effective as of the June 1, 2025, commencement of DSP VII and continuing for the duration of DSP VII, as follows:
 - a. If at any time during DSP VII, the movement of customers to or from the GSSR-2 would result in a significant over or under collection, the Companies may file an interim rate adjustment to update the GSSR-2 E-factor upon five-day notice.

If there are no GSSR-2 default service customers for six consecutive months, or if the adjustment of the GSSR-2 E-factor would exceed 0.01 cents per kWh for either Company due to customer migration, such affected Company is authorized to use the Customer Choice Support (CCS) Rider in lieu of the GSSR-2 E-factor to collect or credit the current amount in the GSSR-2 E-factor account (plus carrying charges) from all GSSR-2 eligible customers over a six-month

⁶ For clarity, the paragraph numbering is kept consistent with the Settlement Petition paragraphs 9-16.

period. The GSSR-2 E-factor will reset to zero concurrent with the effective date of the CCS rate change.

The Companies will revise the existing CCS Rider as necessary to include this pilot program, including revisions to the eligible cost categories and reflecting different potential surcharges (set at 0.00) for GSSR-1 and GSSR-2 eligible customers.

10. The Companies shall file tariff supplements, in the forms set forth in Attachment A to this Joint Petition, to implement the GSSR-2-E Factor effective June 1, 2025.⁷
11. The Companies withdraw CW Statement No. 2-SD.
12. The Companies will establish laddered pricing for the energy price to be paid to the supplier, as shown in Attachment B.⁸ The laddered pricing will be for two-year forward price strips that are determined each six months (other than the phase-in and phase-out periods, as shown in the table below), where one-quarter of the pricing is adjusted every six months while avoiding sharp pricing swings by relying on a 24-month average.
13. Each Company will provide the wholesale supplier for the applicable territory with notice no later than 1:30 pm on the day of its desire to trigger pricing for the territory.
14. The Companies' RFP process will entail a two-bid minimum; however, if either Company receives a single bid in the RFP, that Company can request a waiver of the two-bid minimum requirement in its Confidential Summary of Bid Results submittal to the Commission by demonstrating to the Commission that the single bid received is reasonable and in line with the Company's prior bid results and historic PJM data. Where applicable, prior bid results shall be provided with a narrative

⁷ Due to its lengthiness, Attachment A is incorporated herein by reference. The reader is directed to the Settlement Petition for a review of Attachment A.

⁸ Due to its chart, Attachment B is incorporated herein by reference. The reader is directed to the Settlement Petition for a review of Attachment B.

explaining relevant changed market conditions relative to the current RFP period.

15. The Settling Parties agree that, except as modified by this Settlement Term Sheet, the Companies' DSP VII, as filed on May 31, 2024, shall be stipulated to the record in this proceeding.
16. The Settling Parties agree that the Settlement terms, as modified by the Settlement, include and/or address all the required elements of Section 2807 of the Public Utility Code; the Commission's regulations, and the Commission's policies for a Default Service Plan.

The Settlement sets forth customary provisions that the Settlement is made without prejudice to each party's litigation position, that it is conditioned upon the Commission's approval without modification, that the Joint Settlement Petitioners agree to waive the filing of exceptions, if the Commission approves the Settlement without modification, that if the Commission fails to grant approval or modifies any material term or condition of the Settlement, any Joint Settlement Petitioners may elect to withdraw from the Settlement upon written notice to the Commission and the other petitioners within five business days and the Settlement will be of no force and effect. Additionally, the Joint Petitioners agree that the Settlement is in the public interest.⁹

FINDINGS OF FACT

1. Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company are jurisdictional electric distribution companies in Pennsylvania.

⁹ Settlement ¶¶ 18-26.

2. Citizens provides service to approximately 7,143 customers in Lewisburg and the surrounding area; 5,945 of these are residential customers, with the remaining 1,198 consisting of commercial, industrial and lighting accounts.

3. Wellsboro provides service to approximately 6,456 customers, 5,155 of which are residential, and 1,301 of which are commercial, industrial, resale or lighting.

4. On May 31, 2024, Citizens and Wellsboro filed a Joint Petition for approval of their Seventh Joint Default Service Program (DSP VII).

5. The Office of Consumer Advocate is authorized to represent the interests of consumers before the Commission. Act 161 of 1976, 71 P.S. § 309-2.

6. The Office of Small Business Advocate is authorized and directed to represent the interest of small business consumers of utility service in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41-399.50.

7. On September 24, 2024, Joint Petitioners, Citizens, Wellsboro, OCA, and OSBA, filed a Joint Petition for Settlement of Citizens' Electric Company of Lewisburg, PA's and Wellsboro Electric Company's Seventh Joint Default Service Plan.

8. An evidentiary hearing was held in this proceeding on September 25, 2024. All parties waived cross-examination.

9. During the evidentiary hearing, the parties stipulated to the admission of the previously served testimony and exhibits.

10. By interim order issued on December 12, 2024, the Joint Petition for Settlement of Citizens' Electric Company of Lewisburg, PA's and Wellsboro Electric Company's Seventh Joint Default Service Plan was admitted into the record.

DISCUSSION

A. Applicable Legal Standards

1. Commission Policy on Settlements

The Commission encourages parties in contested on-the-record proceedings to settle cases. *See* 52 Pa. Code § 5.231. Settlements eliminate the time, effort and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily imposes.

By definition, a “settlement” reflects a compromise of the parties’ positions and arguably fosters and promotes the public interest. When parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. *Pa. Pub. Util. Comm’n v. CS Water and Sewer Assocs.*, 74 Pa.P.U.C. 767, 771 (1991); *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Opinion and Order entered Oct. 4, 2004).

2. Burden of Proof

“Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking affirmative relief from the Commission bears the burden of proof.” *Joint Application of Equitable Res., Inc., and The Peoples Nat. Gas Co., d/b/a/Dominion*

Peoples, Docket No. A-122250F5000, 2007 Pa.P.U.C. LEXIS 32, *7 (Opinion and Order entered Apr. 13, 2007, at 7). In this proceeding, the Joint Petitioners are seeking Commission approval of their Settlement Petition. Accordingly, the Joint Petitioners bear the burden of proof.

The term "burden of proof" means a duty to establish a fact by a preponderance of the evidence. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1954); *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990); and *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.C. 300 (1976). The term "preponderance of the evidence" means one party must present evidence which is more convincing, by even the smallest amount, than the evidence presented by the other party. *Id.*

Joint Application of Equitable Resources, Inc., 2007 Pa.P.U.C. LEXIS 32, at *8.

Therefore, the Joint Petitioners must establish by a preponderance of the evidence that the proposed settlement is in the public interest.

3. Default Service Plans

The Electricity Generation Customer Choice and Competition Act¹⁰ (Act 138) requires that default service providers acquire electric energy through a "prudent mix" of resources designed: (i) to provide adequate and reliable service; (ii) to provide the least cost to customers over time; and (iii) to achieve these results through competitive processes, including auctions, requests for proposals and/or bilateral agreements. 66 Pa.C.S. §§ 2807(e)(3.1), (3.4). Act 138 also mandates that customers have direct access to a competitive retail generation market. 66 Pa.C.S. § 2802(3). This

¹⁰ *Electricity Generation Customer Choice and Competition Act*, Act 138 of 1996, as amended by Act 129 of 2008 (Act 129), 66 Pa.C.S. §§ 2803, 2806.1, 2807, 2811, 2813-2815.

mandate is based on the legislative finding that “competitive market forces are more effective than economic regulation in controlling the cost of generating electricity.” 66 Pa.C.S. § 2802(5); *See Green Mountain Energy Co. v. Pa. Pub. Util. Comm’n*, 812 A.2d 740, 742 (Pa. Cmwlth. 2002).

In response, the Commission enacted default service regulations in 2007 at 52 Pa. Code Sections 54.181 to 54.189 and issued a policy statement at 52 Pa. Code Sections 69.1802 to 69.1817, to address default service plans. The regulations were amended to incorporate the Act 129¹¹ amendments into Act 138.¹²

B. Statements of the Joint Petitioners in Support of the Settlement

For the Commission’s consideration the Joint Petitioners submitted separate Statements in Support of the Settlement. After conducting an informal Technical Conference at which the Companies made their witnesses available to OCA and OSBA the Parties engaged in settlement discussions which resulted in an amicable resolution of the matter and submission of the Settlement Petition. The respective parties assert this Settlement is in the interests of the Companies and its customers and is otherwise in the public interest.

1. The Companies’ Position

The Companies assert that the Settlement reflects a reasonable balance and appropriate compromise of the Parties’ positions while providing the Companies with a

¹¹ Act 129 of 2008 (Act 129), codified at 66 Pa.C.S. §§ 2803, 2806.1, 2807, 2811, 2813-2815.

¹² *Implementation of Act 129 of October 15, 2008; Default Serv. And Retail Elec. Mkts.*, Docket No. L-2009-2095604 (Final Rulemaking Order entered Oct. 4, 2011) (Act 129 Final Rulemaking Order).

default service plan that complies with the directives of the Competition Act, the Commission's Default Service Regulations and Policy Statement. The Companies maintain that in developing the DSP VII, the Companies elected to preserve the program approved by the Commission in the DSP VI proceedings, except for a single procedural change.¹³ The Settlement similarly maintains the Procurement and Implementation Plan approved by the Commission in the Companies' DSP VI proceeding but adopts limited modification to address issues raised by intervenors at the Technical Conference.

The Companies supporting statement sets forth verbatim the following.

6. Under the terms of the Settlement, the Companies will:
 - a. Implement a GSSR-2 E-factor on a pilot basis effective as of the June 1, 2025, commencement of DSP VII and continuing for the duration of DSP VII;
 - b. Establish additional laddered pricing for the energy price to be paid to the supplier, as shown in Attachment B to the Joint Petition. The additional laddered pricing will be for two-year forward price strips that are determined each six months (other than the phase-in and phase-out periods as shown in Attachment B), where one-quarter of the pricing is adjusted every six months.
 - c. Provide the wholesale supplier for the applicable territory with notice no later than 1:30 pm on the day of its desire to trigger pricing for the territory; and
 - d. Maintain a two-bid minimum for the RFP process. However, if either Company receives a single bid in the RFP, that Company can request a waiver of the

¹³ The DSP VII Petition proposed to change the notice period required to trigger pricing for the fixed-price product from 24 hours' notice to a same-day trigger with a 3 p.m. cutoff. DSP VII Petition at 13. The Joint Petition further modifies this proposal by changing the cutoff time to 1:30 p.m.

two-bid minimum requirement in its Confidential Summary of Bid Results submittal to the Commission by demonstrating to the Commission that the single bid received is reasonable and in line with the Company's prior bid results and historic PJM data.

7. The above modifications to the Companies' . . . DSP VII resolve various issues raised in discussions with OCA and OSBA.
 - a. The implementation of a GSSR-2 E-factor pilot program addresses OCA's concerns regarding inter-class cost subsidization. The Companies as-filed DSP VII preserved the reconciliation process initially approved through the DSP IV. Citizens' and Wellsboro Stipulation for Admission of Evidence, Attachment 2 ("Stipulation"). In that docket, the Commission approved the reconciliation of GSSR-2 under and over-collections through the GSSR-1 E-factor in part due to a concern that implementing a GSSR-2 E-factor could result in highly volatile pricing in the event of customer migration between competitive supply and default service among the small number of GSSR-2 customers in each Company's service territory.¹⁴ The Companies' proposed pilot program addresses this problem by authorizing recovery of over or under collections exceeding 0.01 cents per kWh from all GSSR-2 eligible customers through the nonbypassable CCS Rider. The Companies believe this solution reasonably balances the OCA's concerns regarding inter-class cost subsidization with the Companies' interest in avoiding unreasonable rate volatility for the GSSR-2 customers.
 - b. The additional ladder pricing formula for fixed-price wholesale energy balances OCA's interest in

¹⁴ See *Joint Petition of Citizens' Elec. Co. of Lewisburg, PA and Wellsboro Elec. Co. for their Default Serv. Program for the Period June 1, 2015 through May 31, 2018*, Docket Nos. P-2014-2425024 and P-2014-2425245 (Order entered Feb. 27, 2015) ("February 2015 Order").

price stability with the End State Order's the Companies default service product reflects current market conditions. End State Order at 22-23; Stipulation at 1-2. The revised pricing formula generally preserves the fixed-price product from the Companies' DSP VI, but expands the laddering to include longer-term 18 and 24-month lock-ins as set forth in Attachment B to the Joint Petition. This modification is intended to further stabilize pricing throughout the DSP VII period. Stipulation, Attachment 2.

- c. The modification providing for a same-day trigger for the fixed-price wholesale energy no later than 1:30 pm addresses OCA's concerns that triggering same-day pricing too late in the day could force suppliers to confirm pricing under tightened market conditions around close of business. Stipulation, Attachment 2.
 - d. Lastly, the joint petition's proposal to preserve a two-bidder minimum rule for the companies' rfps, but allow for waiver of the rule upon a showing that a single bid is reasonable, clarifies that historical pjm data and prior bid results may in some cases require a contextual narrative explanation to support a showing that a single bid is reasonable and reflective of current market conditions. Stipulation, Attachment 2.
8. As explained in the Companies' [DPS VII] Petition, the Companies also respectfully request to extend the DSP VII by 2 years in line with the Commission's approval of the same extension for the Companies' DSP VI. Granting this extension will allow the Companies to reduce the administrative costs of preparing and filing default service plans with the Commission. As-Filed Petition at 8-9. Extensions of this nature have become commonplace, recently approved for other EDCs. *See Petition of Metropolitan Edison Company for Approval of Its Default Service Plan for the Period From June 1, 2023 through May 31, 2027*, Docket Nos. P-2021-

3030012, P-2021-3030013, P-2021-3030014, and P-2021-3030021 (*Order entered June 29, 2022*); *Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period June 1, 2017 to May 31, 2021*, Docket No. P-2016-2543140 (*Order entered Dec. 22, 2016*).

9. The Companies also propose a threshold of 400 kW for Hourly-Priced Service ("HPS") offered to Large Commercial & Industrial customers, which, though different from the guidance set forth in the End State Order, is still in line with the Commission's observation therein that smaller EDCs may furnish evidence showing why the 100 kW demarcation, suggested by the End State Order, would not be appropriate for their service territories. Citizens'/Wellsboro Statement No. 1, Direct Testimony of Byron Farnsworth Jr. ("CW Statement No. 1") at 14; Citizens'/Wellsboro Statement No. 2, Direct Testimony of Nathan Johnson ("CW Statement No. 2") at 10-11. Based on the customer characteristics in their territories, the Companies believe that maintaining the current 400 kW threshold previously approved for the Companies' DSP VI remains appropriate and, therefore, requests a waiver of the 100kW demarcation. *Id.*
10. With the changes to the As-Filed Petition described in paragraphs 6 and 7 in place, the Companies will continue to meet their DSP obligations by conducting an RFP and entering into load-following full requirements contracts with one or more wholesale suppliers, which is consistent with the Commission's directive that all default service procurements include auctions, requests for proposals or bilateral agreements. Further, consistent with the Commission's Regulations, the proposed procurement plan offers a prudent mix of products because the proposed wholesale default service product will consist of five principal cost components: (1) an energy component that will be priced using an index and adjusted for distribution losses; (2) a direct pass through of Network Integrated Transmission Service ("NITS") costs for default service customers; (3) a direct pass-through of Regional

Transmission Expansion Plan ("RTEP")/Transmission Enhancement Charge ("TEC") costs for default service customers; (4) a direct pass-through of Capacity Costs (Locational Reliability and Capacity Performance) for default service customers; and (5) a fixed Supplier Adder covering all other costs to deliver default service to the wholesale meter and the Citizens' or Wellsboro Aggregate Bus. *See* CW Statement No. 2 at 12.

11. Consistent with the Companies' DSP VI, the energy component for Residential and Small Commercial Customers will set a fixed price to be adjusted every six months based on the Intercontinental Exchange's ("ICE") published PJM West on-peak monthly forward pricing as of selected "Trigger Dates." CW Statement No. 1 at 5.
12. As indicated above, Large Commercial & Industrial customers with monthly billing demand at or above 400 kW during any billing period over the prior 12 months, will receive HPS based on the real-time PJM Locational Marginal Pricing ("LMP") for the PJM West Hub. CW Statement No. 1 at 6.
13. In the rate design plan, the Companies intend to preserve the design and structure of the existing GSSRs, except for the aforementioned implementation of the GSSR-2 E-Factor pilot program. For the GSSR-1, the Companies propose to continue to adjust rates every 6 months, with distribution losses adjusted annually on June 1. Citizens'/Wellsboro Statement No. 3, Direct Testimony of Melissa Sullivan ("CW Statement No. 3") at 5-6. Consistent with the Commission's End State Order, preliminary rates will be filed 45 days prior to the effective date prior to the effective date. *Id.* at 9. This change will ensure that the GSSR can be modified more expeditiously and will minimize the length of time that an inaccurate GSSR rate is applied. Concerning the GSSR-2, the Companies' model reflects the real-time pricing now available to Large C&I customers, with an adjustment for distribution losses. *Id.* at 8. The Companies will continue to maintain the 5-day notice

period approved for DSP VI for interim filings. Capacity, NITS, RTEP/TEC and hourly LMPs are direct pass-throughs based on PJM rates and billing determinants. *Id.* The Supplier Adder also is a direct pass-through on a per kWh basis. *Id.*

14. Further, pursuant to 66 Pa.C.S. § 1307, the GSSR will recover through an automatic adjustment mechanism all bidding, contracting, risk management, scheduling and forecasting costs, as well as other costs that are required to procure default service supply. In this manner, the Companies will also recover all administrative costs, applicable taxes, and costs associated with the Companies' AEPS compliance. CW Statement No. 3 at 13.
15. The Companies' DSP VII continues the Retail Market Enhancement programs approved as part of the Companies' DSP VI. Specifically, the Companies will continue offering the Seamless Moves and Instant Connect programs under the DSP VII. CW Statement No. 2 at 9. The DSP VII also responds to the Commission's Secretarial Letter at Docket No. M-2019-3007102, which directed EDCs to address adoption of time of use rates for electric vehicle charging. The Companies commit to actively monitor issues related to electric vehicles and the adoption of related programs by larger EDCs, but do not propose to implement a time of use rate for electric vehicles at this time. CW Statement No. 1 at 15.
16. The DSP VII also incorporates the Supplier Master Agreement approved as part of the Companies' DSP VI proceedings, including the addition of a targeted "Change in Law" provision for renegotiation of the supplier adder if there is a statutory change to Alternative Energy Credit ("AFC") compliance mandates. CW Statement No. 2, Exhibit NJ-4, Appendix E.
17. Finally, in case a selected wholesale supplier fails to deliver energy supply or the 2025 RFP fails to yield

qualified bids, the Companies' DSP VII adopts the Contingency Plan approved by the Commission for the DSP VI. CW Statement No. 1 at 12-13.^[15]

For all of the above reasons, the Companies contend that the settlement is in the public interest and request approval of the DSP VII Petition.

2. OCA's Position

OCA submits that the Settlement provides for the adoption of the Companies' petition as proposed with four substantive modifications: (1) the Companies will implement a GSSR-2 E factor on a pilot basis; (2) the Companies will establish laddered pricing for the energy price to be paid to the supplier; (3) each Company will provide the wholesale supplier with notice no later than 1:30 on the day of its desire to trigger pricing for its respective territory; and, (4) the Companies' RFP process will entail a two-bid minimum or the request of a waiver under certain conditions. Settlement, ¶¶ 9, 12-14, Attachment A-B. Under the Settlement, the Parties agree that the Settlement terms, as modified by the Settlement, include and/or address all the required elements of Section 2807 of the Public Utility Code, the Commission's regulations, and the Commission's policies for a Default Service Plan. Settlement, ¶ 16.

OCA contends its witness Dr. Serhan Ogur did not raise concerns regarding the remaining aspects of the Companies' filing, and the OCA agrees that the remaining aspects of the Plan, as modified by the Settlement, are consistent with the law, are in the public interest and should be approved. Concerning the different elements of the Settlement, OCA submitted the following:

¹⁵ The Companies Statement in Support of Settlement ¶¶ 6-17.

B. GSSR-2 E Factor Implementation

Under the Settlement, Citizens'/Wellsboro will implement a GSSR-2 E factor on a pilot basis at the commencement of DSP VII and continue for the Plan's duration. Settlement, ¶ 9. OCA witness Dr. Ogur summarized the Companies' proposal:

[t]he Companies will implement a GSSR-2 E-factor on a pilot basis effective as of the June 1, 2025, commencement of DSP VII, and continuing for the duration of DSP VII. If at any time during DSP VII, the movement of customers to or from the GSSR-2 would result in a significant over or under collection, the Companies may file an interim rate adjustment to update the GSSR-2 E-factor upon five-day notice. If there are no GSSR-2 default service customers for six consecutive months, or if the adjustment of the GSSR-2 E-factor would exceed 0.01 cents per kWh for either Company due to customer migration, such affected Company is authorized to use the Customer Choice Support (CCS) Rider in lieu of the GSSR-2 E-factor to collect or credit the current amount in the GSSR-2 E-factor account (plus carrying charges) from all GSSR-2 eligible customers over a six-month period. The GSSR-2 E-factor will reset to zero concurrent with the effective date of the CCS rate change.^[16]

OCA's witness Dr. Ogur supported the Companies' proposed approach to the GSSR-2 E factor pilot. Dr. Ogur noted:

[t]he implementation of a GSSR-2 E-factor eliminates cross-subsidization concerns between GSSR-1 customers and GSSR-2 customers. Under the Petition, the Companies would automatically reflect any overcollection or under-collection of the GSSR-2 costs in the GSSR-1 E-factor even when there are customers on GSSR-2 default service, which would result in a cost shift from GSSR-2 to GSSR-1 customers.

16 OCA Verified St. 1 at 5-6.

Implementing a GSSR-2 E-Factor avoids cost shifts to GSSR-1 customers and ensures that all GSSR-2 costs are eventually recovered from GSSR-2 or GSSR-2 eligible customers.^[17]

As Dr. Ogur stated, the proposal will avoid inappropriate cost shifts to GSSR-1 customers while still allowing the Companies to appropriately recover GSSR-2 costs.^[18]

C. Laddered Pricing

Under the Settlement, the Companies will establish laddered pricing for the energy price to be paid to the supplier. Settlement, ¶ 12, Attach. B. The laddered pricing will be for two-year forward price strips that are determined each six months, where one-quarter of the pricing is adjusted every six months while avoiding sharp pricing swings by relying on a 24-month average. Settlement, ¶ 12.

The Settlement addresses the OCA's concerns raised by Dr. Ogur at the Technical Conference regarding the Companies' proposal to continue to use a 12-month average for one-half of the energy component of the wholesale contract adjusted every six months and the other one-half calculated in the same way, but six months later. In his Verified Statement, Dr. Ogur supported his modification to the laddered pricing the Companies use in their DSP IV Plan:

[f]irst, under the laddered pricing approach stipulated in Attachment B to the Joint Petition for Settlement, one-quarter of the energy price component of the GSSR-1 fixed rate will change every six months, whereas one-half of the energy price component of the GSSR-1 fixed rate would change every six months under the Petition. Therefore, the modification in the laddering of energy pricing as stipulated in the Terms of Settlement will greatly improve GSSR-1 rate stability. In light of the recent volatility in wholesale energy prices (in the PJM

¹⁷ OCA Verified St. 1 at 8.

¹⁸ OCA Statement in Support of Settlement pp. 2-3.

spot market as well as in forward markets), enhancing rate stability and predictability for residential and small commercial customers is a prudent approach. The Companies' current laddering approach served GSSR-1 customers well in the relatively stable and declining price wholesale market environment until 2021. The GSSR-1 customers will be served more effectively in the more volatile wholesale market environment which we seem to have entered in the last few years under the more stable GSSR-1 rate structure stipulated in Attachment B.^[19]

Dr. Ogur suggested the as modified by Settlement approach to laddered pricing is consistent with the approach used by the Companies' larger peers:

[r]elying on 24-month forward strips, with 25 percent of the energy repriced every six months, for indexed energy pricing will also bring the Companies' default service pricing approach more in line with their larger peers in Pennsylvania (e.g., PECO Energy Company, Duquesne Light Company, PPL Electric Utilities Corporation, FirstEnergy Pennsylvania Electric Company), which rely on a combination of 12-month and 24-month fixed-price full-requirements contracts the price of which also includes energy.^[20]

The Settlement adequately resolves the OCA's concerns. The Settlement provides for a laddered pricing structure like larger DSP providers and smooths the edges of potential price volatility by using a 24-month forward strip component.^[21]

D. Same Day Trigger Notice

The Settlement provides that each Company will provide the wholesale supplier for the applicable territory with notice no later than 1:30 pm on the day of its desire to

¹⁹ OCA Verified St. 1 at 7-8.

²⁰ OCA Verified St. 1 at 7-8.

²¹ OCA Statement in Support of Settlement pp. 3-5.

trigger pricing for the territory. Settlement, ¶ 13. Under Citizens'/Wellsboro's current DSP VI, the Companies provide their wholesale suppliers with day-ahead notice of the trigger date. OCA St. 1 at 3.

Dr. Ogur recommended that when moving from the day-ahead trigger notice approach to a same day trigger notice, the Companies should consider a cut-off time early enough in the day to allow the wholesale supplier the ability to hedge its energy position:

[m]oving the price trigger notification requirement to the wholesale supplier from 3 pm on the same day (as proposed in the Petition) to 1:30 pm on the same day balances the Companies' desire to reduce the likelihood of wholesale energy market fluctuations between the time that the trigger notice is given and the lock-in of the wholesale energy price and the importance of allowing the wholesale supplier to be able to hedge its energy position resulting from the pricing trigger before forward trading ends for the day or it becomes illiquid. Forcing the wholesale supplier to hedge its position in an illiquid market on the same day or to take the risk of the market moving against it overnight would have increased the risk and uncertainty for the supplier and may have resulted in a larger risk premium being built into the Supplier Adder. Moving the deadline for the pricing trigger notice to the supplier from 3 pm to 1:30 pm on the same (trigger) day reduces this risk.^[22]

Therefore, the proposal to move to a same day trigger by 1:30 pm strikes a balance between the Companies' desire to move to same day trigger notice while reducing the risk and uncertainty for the supplier as discussed by OCA's expert witness and should be approved as in the public interest.^[23]

²² OCA Verified St. 1 at 8.

²³ OCA Statement in Support of Settlement pp. 2-3.

E. RFP Process

Under the Settlement, the Companies' RFP process will entail a two-bid minimum; however, if either Company receives a single bid in the RFP, that Company can request a waiver of the two-bid minimum requirement in its Confidential Summary of Bid Results submittal to the Commission by demonstrating to the Commission that the single bid received is reasonable and in line with the Company's prior bid results and historic PJM data. Settlement, ¶ 14. Where applicable, prior bid results shall be provided with a narrative explaining relevant changed market conditions relative to the current RFP period. Settlement, ¶ 14. The Companies' Petition did not contain a minimum bidder requirement. OCA Verified St. 1 at 5.

Dr. Ogur explained:

[r]equiring the Companies' RFP process to entail a two-bid minimum ensures at least some level of competition in the process while giving the Companies the flexibility to request a waiver of this requirement ensures that, if a single bid is received but that single bid is in line with the winning bids from previous multi-bid solicitations, that single yet competitively priced bid is not unnecessarily rejected. All else equal, non-award in the bid solicitation process is undesirable and should be avoided because it would greatly elevate the possibility of exposing the entire GSSR-1 load to the PJM spot market prices for an extended period of time, which in turn would increase rate volatility for residential and small commercial customers.^[24]

The proposal to require a two-bid minimum with a built-in ability to show the reasonableness of a single, yet competitively priced bid provides protection to exposing the GSSR-1 load to spot market prices thus provides protection against rate volatility for residential and small commercial customer.^[25]

²⁴ OCA Verified St. 1 at 8-9.

²⁵ OCA Statement in Support of Settlement p. 6.

OCA concludes that the Settlement, as a whole, is in the public interest for the reasons outlined above as well as those set forth in Dr. Ogur’s Verified Statement.

3. OSBA’s Position

OSBA submits that the Settlement proposes to change how the Companies procure their electric supply. Specifically, the Companies will “ladder” the price paid to the electric supplier. Ladder pricing entails two-year forward pricing that is determined every six months. Furthermore, one-quarter of that pricing is adjusted every six months, which is based upon a 24-month average of that pricing.²⁶

According to OSBA, this methodology is designed to minimize significant, rapid changes in supply pricing, thereby minimizing the impact of those changes upon the consumer. Small businesses prefer stable, predictable utility rates, especially in regard to their electric usage.²⁷

OSBA asserts that the Settlement proposes to notify wholesale suppliers no later than 1:30 pm on the day of obtaining pricing.²⁸ This notice should serve to reduce price volatility on the days when the Companies are contemplating purchases of supply.²⁹

OSBA posits that the Settlement proposes the requirement of a two-bid minimum.³⁰ This proposal will help to ensure that the bidding process for electric supply is a competitive process. If only a single bid is received, the Settlement will require the Companies to fully demonstrate, to the Commission, that the bid price is reasonable.³¹

²⁶ Settlement ¶ 12.

²⁷ OSBA Statement in Support of Settlement p. 2.

²⁸ Settlement ¶ 13.

²⁹ OSBA Statement in Support of Settlement pp. 2-3.

³⁰ Settlement ¶ 14.

³¹ *Id.*

Addressing the GSSR-2 E-Factor component of the Settlement, OSBA contends that each of the Companies have two Generation Supply Service Rates (GSSRs). GSSR-1 is a fixed-price option for residential and small commercial customers (<400kW). GSSR-2 is an hourly priced option for large commercial customers (≥400kW). Under the current DSP, over- or under-recovery of electric supply costs for the GSSR-2 customer class were paid for through the GSSR-1 E-factor. This resulted in residential and small business customers potentially subsidizing the cost recovery of over or under collections for the large customers. The Settlement proposes to create a GSSR-2 customer class E-Factor. This will remove the burden on the Companies' small businesses by requiring the large customers to pay for their own over and under recovery of electric supply charges.³²

OSBA concludes for the above reasons it supports the Settlement and request approval of the Settlement in its entirety.

RECOMMENDATION

Commission policy promotes settlements, 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. Default service plan cases may become complex and expensive to litigate. The cost of such litigation at a reasonable level is an operating expense recoverable in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the

³² OSBA Statement in Support of Settlement pp. 3.

preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision, yields significant expense savings for the company's customers. Those are the reasons for the Commission's long-standing Commission policy encouraging settlements.

In reviewing a settlement, there must be substantial evidence to establish that the settlement is in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165, (Opinion and Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

After due consideration of the Settlement, I conclude the Settlement is beneficial to the Companies' customers and is in the public interest. The Settlement provides for implementation of a GSSR-2 E- factor on a pilot basis. This component of the Settlement will avoid inappropriate cost shifts to GSSR-1 customers while still allowing the Companies to appropriately recover GSSR-2 costs. The ladder pricing aspect of the Settlement for the energy process to be paid by the supplier address potential price volatility by using a 24-month forward strip component. Under the Settlement each Company will provide the wholesale supplier with notice no later than 1:30 on the day of its desire to trigger pricing for its respective territory. This aspect of the Settlement strikes a balance between the Companies' desire to move to same day trigger notice while reducing the risk and uncertainty for the supplier. The Companies' proposed RFP process will entail a two-bid minimum with a built-in ability to show the reasonableness of a single bid. This aspect of the Settlement provides protection against rate volatility for residential and small commercial customer. Accordingly, I will recommend approval of the Settlement without modification.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 2801–2815.

2. The party seeking a rule or order from the Commission has the burden of proof. It is well-established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Lansberry, Inc. v. Pa. Publ. Util. Comm’n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

3. The requirements of a default service plan include that the default service provider follow a Commission-approved competitive procurement plan, that the competitive procurement plan include auctions, requests for proposal, and/or bilateral agreements, that the plan include a prudent mix of spot market purchases, short-term contracts, and long-term purchase contracts designed to ensure adequate and reliable service at the least cost to customers over time, and shall offer a time-of-use program for customers who have smart meter technology. 66 Pa. Code §§ 2807(e), (f).

4. The Commission’s default service regulations and policy statement apply to this proceeding. 52 Pa. Code §§ 54.181-54.189, 69.1802-69.1816.

5. The Commission has directed that EDCs consider the incorporation of certain market enhancement programs into their default service plans in order to foster a more robust retail competitive market. *Investigation of Pa.’s Retail Elec. Mkt.: Recommendations Regarding Upcoming Default Serv. Plans*, Docket No. I-2011-2237952 (Order entered Dec. 16, 2011); *Intermediate Work Plan* (Final Order entered March 2, 2012).

6. The Commission must determine that a settlement is in the public interest in order to approve it. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water and Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991).

7. Citizens' Electric Company of Lewisburg, PA's and Wellsboro Electric Company's proposed Joint Default Service Plan for the Period June 1, 2025 through May 31, 2029 (DSP VII) for the period June 1, 2025, through May 31, 2029, as amended by the terms of the Settlement, is compliant with the requirements of Section 2807 of the Public Utility Code, the Commission's' regulations, and the Commission's policies for a Default Service Plan and is in the public interest.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement of Citizens' Electric Company of Lewisburg, PA's and Wellsboro Electric Company's Joint Default Service Plan jointly filed on September 24, 2024, by Citizens' Electric Company of Lewisburg, PA, Wellsboro Electric Company, the Office of Consumer Advocate and the Office of Small Business Advocate at Docket Nos. P-2024-3049357 and P-2024-3049359 be approved without modification.

2. That Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company shall file tariff supplements, on at least one day's notice after entry of the Commission Opinion and Order approving the Settlement Petition, consistent with Attachment A to the Settlement Petition, to implement a GSSR-2 E-factor on a pilot basis

effective as of the June 1, 2025, commencement of DSP VII and continuing for the duration of DSP VII.

3. That Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company shall establish on a pilot program basis a ladder pricing structure for the energy price to be paid to the supplier for two-year forward price strips that are determined each six months, consistent with Attachment B to the Settlement Petition.

4. That Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company shall provide the wholesale supplier for the applicable territory with notice no later than 1:30 pm on the day of its desire to trigger pricing for the applicable territory.

5. That Citizens' Electric Company of Lewisburg, PA's and Wellsboro Electric Company's DSP VII shall include a two-bid minimum requirement for the Request for Proposals for default service supply, subject to the exception set forth in Paragraph 14 of the Settlement Petition.

6. That, upon Commission approval of the tariff supplement filed by Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company compliance with the Commission's Opinion and Order in this matter, Docket Nos. P-2024-3049357 and P-2024-3049359 shall be marked closed.

Date: December 23, 2024

/s/
Conrad A. Johnson
Administrative Law Judge