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June 15, 2006

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
2nd Fl., 400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Policies to Mitigate Potential Electricity Price Increases;
Docket No. M-00061957 – Comments of Strategic Energy, LLC

Dear Secretary McNulty:

Enclosed are the original and fifteen copies of the Strategic Energy, LLC's Comments for filing in the above-referenced matter. An electronic version has been emailed to Shane Rooney as required by the Commission's May 24, 2006 Order.

Sincerely,



Kevin J. Moody

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

KJM/jls
Enclosures

HAR:66540.1/STR163-210988

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Policies to Mitigate Potential Electricity Price Increases : Docket No. M-00061957

COMMENTS OF STRATEGIC ENERGY, L.L.C.

Strategic Energy, L.L.C. ("Strategic") hereby provides these Comments to the Pennsylvania Public Utility Commission ("PUC" or "Commission") in response to the Commission's May 24, 2006 Investigation Order requesting comments on "issues and . . . policies to mitigate potential electricity price increases upon the expiration of generation price caps."¹

Strategic is in a unique position to provide comments to the Commission on this subject, as it has participated in most of the electric restructuring proceedings in Pennsylvania since the passage of the Electric Choice and Competition Act² and has been a major provider of competitive generation service to customers in the Commonwealth, most notable in the Duquesne Light Company control area. As Strategic's area of concentration is in providing service to business customers, Strategic's comments are primarily directed towards how the Commission's actions could affect business and industrial customers.

Strategic welcomes this investigation and commends the Commission for its proactive examination of these issues. The removal of the generation rate caps for PECO, PPL, Metropolitan Edison Company ("MetEd") and Pennsylvania Electric Company ("Penelec") clearly presents significant issues which deserve to be carefully examined by the Commission. It

¹ Order at 9, Ordering ¶ 1.

² 66 Pa. C.S. §§ 2801 *et seq.* (hereinafter "Electric Choice Act").

is crucially important that the Commission take care not to harm the continued development of the competitive market so that customers will have as many opportunities and options as possible in the post-rate cap period. The investigation should include consideration of any steps that the Commission should take both before and after the expiration of the rate caps in the PECO, PPL and MetEd/Penelec service territories. Any measures taken to mitigate future electricity prices must comport with the intent of the Choice Act to encourage competition and, more specifically, that any default service in the post transition period must be procured at “prevailing market prices.”³

A. Steps the Commission Should Take Prior to the Expiration of the Rate Caps.

1. Accumulation of Information.

The premise of the Commission's investigation is that the market price for electric energy in 2010 and 2011 will be significantly higher than the present capped generation rates (including the utilities' CTC/ITC charges). While, presently, that appears to be the likely result, at least for some of these companies, the Commission should not assume that this will be the case. To illustrate this point, the attached graphic shows forward calendar prices for on-peak wholesale electricity in PJM West. The graphic shows a rather gradual increase in prices (consistent with the energy market, as well as most other goods and services, in general) and then upward volatility associated with last year's unusual hurricane season. Note that forward prices then declined, and furthermore calendar year prices for 2007, 2008 and 2009 show a decline each year.⁴ The general point to be made is that the Commission should not take any hasty,

³ 66 Pa.C.S. section 2807(e)(3).

⁴ On the attached graph, the PJM West wholesale on-peak calendar-year forward prices are shown for the years indicated on the horizontal axis. Calendar 2006 is indicated with the black line; 2007 (gray); 2008 (green); and 2009 (purple). Note further that the Pike

potentially long-lasting actions based on the market's reactions to some rather dramatic events. Instead, the Commission should begin to accumulate information about likely future energy prices for Pennsylvania customers. The steps that the Commission may decide to take if wholesale prices continue their short-term decline or continue in a relatively steady mode may be considerably different than those it might elect to adopt if wholesale prices increase in a significant manner on a long-term basis.

It is important to state that the currently projected increases in the market price for energy are not the result of electric restructuring, the introduction of competition, or any orders of the Commission. Such things as increased global demand for energy (particularly in the Far East), turmoil in the Middle East, natural disasters and increased environmental regulations and the like all have conspired to reverse the downward trend in the forward price curves that had been assumed at the time the restructuring settlements were approved and the present cap rates were formulated. Those various factors are volatile to say the least. The Commission will be performing a valuable function if it carefully studies likely post-rate cap rates and communicates these projections to customers and the public, together with suggested mitigation steps. In this

County auction occurred in late October 2005, shortly after Hurricanes Katrina and Rita hit and when the wholesale market hit a peak (especially prices for calendar 2006). If that same auction occurred today, prices would be significantly lower. The Pike County example highlights a major drawback of auctions in general and especially auctions for long-term supply, i.e., bad timing can hurt default customers with high prices for an extended period of time. Instead, shorter-term market pricing (e.g., hourly) used for default service ensures that customers will not be forced to accept prices resulting from unfortunately timed auctions for relatively long-term service.

way, the PUC and other policy makers can make policy decisions on the basis of the best available projections, rather than mere assumptions. Also, consistent with the intent of the Choice Act, the Commission should foster an environment where the competitive electric generation suppliers (“EGSs”) can offer various products to mitigate price volatility specific to the needs and desires of its customers. Stated another way, the Commission should not take actions that will distort the market in a manner that will potentially disjoint default service from prevailing market prices and subsequently hamper the ability of EGSs to offer products that necessary must be based in some manner to wholesale market prices.

2. Educate and inform consumers about pending increases.

As the Commission has suggested, in addition to the careful study of likely future electric energy prices in the post-rate cap period, the Commission should initiate a process to communicate and educate consumers and the public about those likely future prices. Part of the strong, negative response to the rate hikes for Pike County Power and Light here in Pennsylvania, Baltimore Gas & Electric ("BG&E") in Maryland, and Delmarva Power and Light ("DP&L") in Delaware can be traced to the lack of warning about the price hikes provided to customers and their sense or perception that rates were going up so quickly after years of relative stability. Educating and publicizing anticipated increases can only help to cushion their impact and allow customers to plan and to respond those increases in a more rational and reasoned way.

B. What the Commission Can Do to Mitigate the Price Hikes Themselves.

Any plan to attempt to mitigate price hikes to consumers in the post-generation rate cap environment should include the following:

1. Give Customers as Many Choices as Possible.

A key goal of Commission action should be to work to provide customers with as many options and choices as possible so that they are not faced with only one take it or leave it choice

– a considerably higher default service price offered by the EDC. The Commission can work to increase both "demand side" and "supply side" options for customers.

(a) Enhance competitive retail options.

On the supply side, the Commission should carefully examine and implement policies that will help to foster the entry of EGSs in all Pennsylvania markets once caps are removed.

The key to facilitating such entry in today's environment include such steps as:

(i) Establishing retail rates to more closely track prevailing energy prices. Such real time energy prices, depending on the type of customer, could mean hourly prices, monthly pricing or time of use. Such real time pricing is crucial to give customers an accurate assessment of the real cost of providing electric energy to them, even if fixed price alternatives are available from the default service provider or competitive suppliers. Prices that more closely track the market allow customers to make knowledgeable and rational economic decisions about their energy usage.⁵ The Energy Policy Act of 2005 ("EPACT") recognizes the benefits of real time pricing and requires the state commissions to investigate how to make real time pricing information and options available;

(ii) Direct EDCs to offer to purchase the receivables of EGSs serving commercial customers;

⁵ The purpose of more real-time market prices for default service is not to make default service "ugly" as Commissioner Shane has suggested; instead it establishes a yard stick or gauge by which all other pricing arrangement may be judged. Such a yardstick is crucial if customers are to accurately assess the value of conservation, demand side management, or, indeed an EGS's fixed price contractual offer.

(iii) Direct that EDCs will be required to offer to EGSs consolidated billing on a "rate ready" basis;⁶ and

(iv) Requiring standard, state-wide supplier tariffs and rules.

Taking such steps will make it far more likely that customers will have competitive alternatives to consider once rate caps are terminated. Such alternatives will provide a key safety valve, akin to assuring an effective evacuation plan for a hurricane prone area, despite efforts to sure-up levees and flood walls. If large rate hikes occur despite the best efforts of the Commission or others, customers should at least have available alternatives which can provide some savings, offer alternative products and services, or make available enhanced services, all of which can mitigate the effects of the large rate hikes. If the Commission waits to implement these competition facilitating rules, it may take years to put these steps in place. The likely consequence will be that customers will have no choices, and will be left even more frustrated with their electric company, the industry in general, and the regulators.

(b) Enhance customer demand-side options.

To facilitate the solutions, the Commission should consider ordering the deployment of advanced metering to as many customers as possible. Advanced metering is a key step that will permit customers to receive pricing signals on an hourly, monthly, or seasonal basis, and, in turn, will facilitate conservation, demand side generation options and other steps all of which, if used appropriately, could give customers the ability to mitigate increases in energy prices.

⁶ "Rate ready" billing means that the EGS provides to the EDC the necessary rate information which the EDC can use to calculate a bill given usage information accumulated by the meter service provider.

The PUC could further encourage conservation rates and benefits even before the end of the rate cap period. EPACT recognizes the benefits of advanced metering, conservation and other demand-side options and directs state commissions to investigate these areas as well.

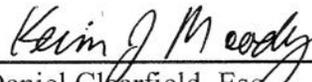
2. Make Sure That Any Mitigation Efforts, Including Non-Market Solutions, Are Competitively Neutral.

The Commission has suggested at least two "regulatory" solutions that would affect a mitigation of price after the end of the rate caps: a rate increase "prepayment" and a rate increase deferral. Such regulatory solutions may or may not be necessary but, in any event, the Commission should establish that, if they are considered, they would not distort the market price of generation against which EGSs must compete. For example, if a "prepayment" is adopted, Strategic strongly suggests that such payments should not be added to the generation price of electricity as the dollars are collected, nor should they be reflected as reductions to the generation price once the caps are removed.⁷

⁷ For example, the Commission, if necessary, could fashion a mitigation plan for residential customers that would include a mitigation surcharge during the rate-cap period. Subsequently if prevailing market prices warrant some mitigation, a credit could be applied to the "distribution" portion of the rate. In this way, customers that decide to shop competitively will also benefit from the banked mitigation funds and EGSs will have a fair chance to compete against a default generation rate that is based solely on prevailing market prices.

Strategic also suggests that any such plan be considered more for the residential market as EGSs are more likely to offer products that could include mitigation features for their commercial and industrial customers based on their specific needs. Most importantly, any deferral plan should be structured so that the post-rate cap generation prices will not be distorted and that a level playing field is provided to foster competition for all generation suppliers consistent with the Choice Act.

Respectfully submitted,



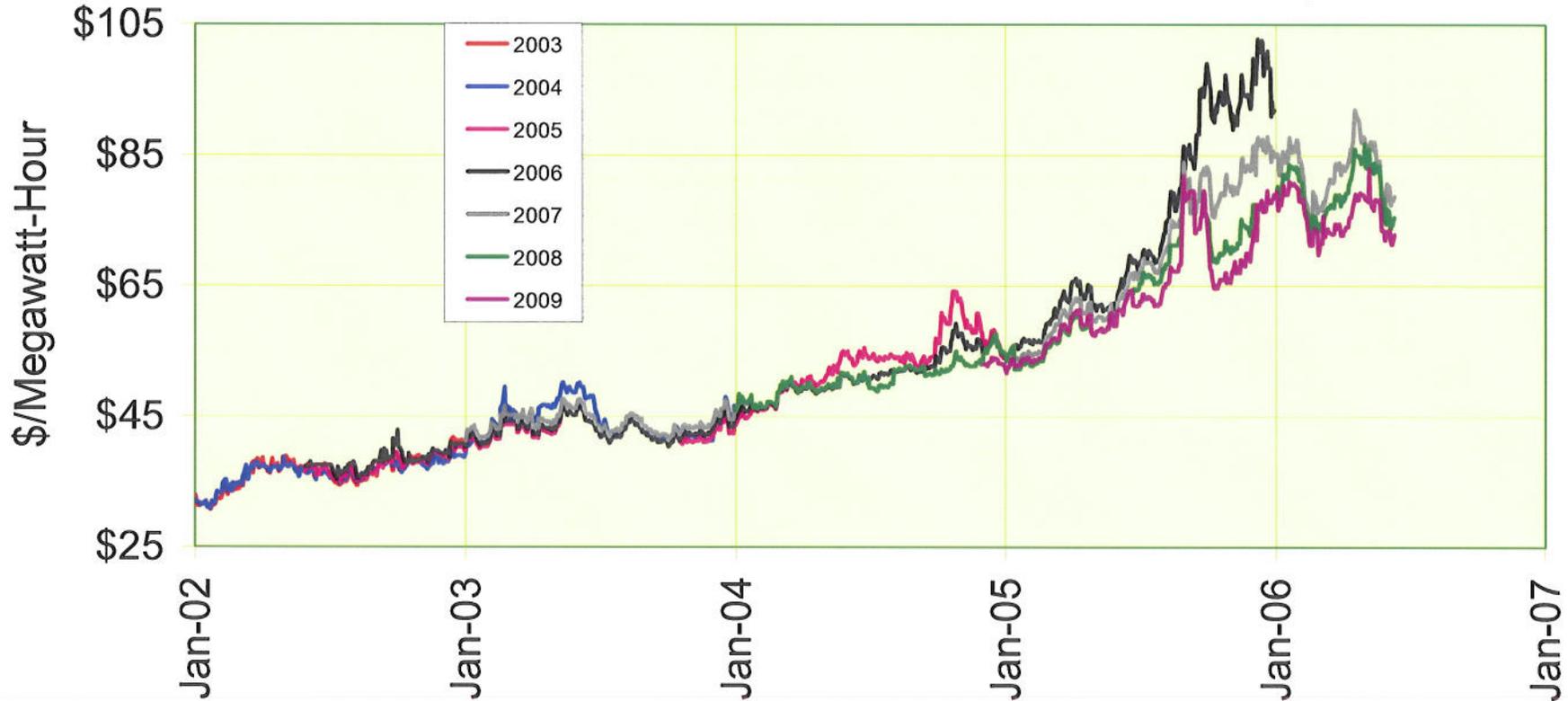
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PJM-West Wholesale Electricity Prices

(Price to Buy Power for the Noted Calendar Year As of the Date on the Horizontal Axis)



Updated: June 13, 2006