**Retail Markets Investigation**
**March 21, 2012 En Banc Comments**

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| **Date:** | **April 4, 2012** |
| **Submitted to:** | **RA-RMI@pa.gov** |
| **Comments of:** | **Met-Ed/Penelec/Penn Power/West Penn Power** |
| **Prepared by:** | **Charles Fullem, Director of Rates and Regulatory Affairs - Pennsylvania** |

## I. INTRODUCTION AND BACKGROUND

On March 2, 2012, the Pennsylvania Public Utility Commission ("Commission") issued a Secretarial Letter in the above-captioned matter, announcing the scheduling of an *en banc* hearing to be held on March 21, 2012 ("March 2 Secretarial Letter") to explore options for the development of an alternative end state default service model. The March 2 Secretarial Letter provided that parties interested in submitting written comments associated with the development of an end state default service model for Commission consideration following the *en banc* hearing may do so no later than March 28, 2012. A subsequent email was distributed to the Retail Markets Investigation ("RMI") work group extending the submission date until April 4, 2012.

Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power") and West Penn Power Company ("West Penn") (collectively "the Companies") respectfully submit the following comments in response to the Commission's March 2 Secretarial Letter regarding various topics discussed at the March 21, 2012 *en banc.*

## II. COMMENTS

The Companies share the Commission's objective to enhance retail competition throughout the Companies' service territories and the Commonwealth. As such, the Companies continue to actively participate in the RMI process and have incorporated many of the Commission's suggested competitive enhancements and other recent recommendations stemming from the RMI into the pending default service plans they have proposed to be implemented from June 2013 through May 2015.[1] As a result of the RMI, the Commission has

[1] *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power company and West Penn Power Company for Approval of their Default Service Programs,* Docket Nos. P-2011-2273650, *et al.* (Joint Petition filed on November 17, 2011).

raised important policy questions regarding the framework for providing default service to non-shopping customers and customers that may remain on, or return to, default service after May 31, 2015. While the Companies stand ready to continue to fulfill the default service provider function, the Companies also recognize that alternative market structures with electric generation suppliers serving in the default service role – if appropriately structured – may also work well, if that is ultimately the policy that Pennsylvania chooses to adopt. However, there are a number of considerations associated with the proposed models, including the products to be offered, pricing model, billing, and the need for legislative reform, that should be addressed when determining how such a model should be structured, which are set forth in greater detail in the comments below.

**A. Product**

One of the common elements in the three models outlined by the Commission's March 2 Order is that electric distribution companies ("EDCs") would continue to serve in the "provider of last resort role" so that backstop service will be supplied by EDCs in the event of default by the alternative default service provider. It does not make economic sense for EDCs to maintain resources and incur costs that will provide no economic benefit to customers; therefore, the requirement for a secondary level of default service is unnecessary. To provide a secondary layer of default service would be not only redundant but also would incur unnecessary costs, because EDCs would be required to maintain proper staffing levels and maintain credit with PJM to be used only in the event of such a default, which would be speculative.

Rather than creating a secondary level of default service, a more appropriate approach would be to strengthen the credit requirements for those electric generation suppliers ("EGSs") that may be chosen to provide default service, and establish a structure whereby customers would be transferred to an alternate default service-providing EGS in the event of the default of the customers' original default service provider. This backstop service could just as easily be provided by other EGSs serving an EDC's territory with the existing resources they will already have dedicated for this purpose, thereby eliminating the need for EDCs to maintain resources strictly as a precaution against a problem that may never arise and that can be effectively solved otherwise.

The proposed models also suggest that alternate provisions be made for customers who are either net-metered or participate in universal service programs, whereby the EDCs would continue to serve these customers. An alternative market model for only a small subset of customers, as suggested, is not necessary. The concerns that have been raised regarding universal service customers could be alleviated by all EDCs adopting the crediting methodology employed by the Companies' universal service plans, which allow for such benefits to be fully portable. (In other words, where a universal service customer's credit remains the same whether that customer shops or takes default service.) Therefore, a universal service customer cannot lose any of their benefit by shopping; nor can they lose any benefit if their default service was provided by an EGS.

Moreover, the issues presented with EGSs serving net metered customers are no different than if EDCs serve net metered customers. With the Commission's recent issuance of recommendations of the Electronic Data Exchange Working Group ("EDEWG"), which recommend the implementation of Change Control #085, providing for the identification of net-metered customers,[2] and with the provision of bidirectional (in and out) kWhs from the net metered customer, EGSs would have all of the necessary information and, therefore, could treat net-metered energy in the same manner as an EDC treats it. The concerns raised with EGSs' capability to provide default service to net metered customers are similar to universal service customers, and are not different from any concerns present where those customers are served by EDCs. Therefore, the Commission could implement rules that would result in net metered customers being treated no differently whether default service is provided by an EDC or an EGS.

Finally, the Companies have adopted the Commission's RMI recommendation and incorporated a standard offer customer referral program into their proposed default service plans[3] in an effort to foster additional retail shopping in their service territories. To the extent EGSs are tasked to provide default service as part of the outcome of this proceeding, there would be no further need for an EDC to continue to offer a customer referral program; therefore, the responsibility to operate and maintain such a program should be borne by those EGSs that are providing default service.

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[2] *Standards for Electronic Data Transfer and Exchange Between Electric Distribution Companies and Electric Generation Suppliers*, Docket No. M-00960890F0015 (Tentative Order entered on January 13, 2012).
[3] CITE TO DEC AND MARCH ORDERS.

**B. Pricing Model**

Generally, the Commission Staff's discussion document lacks the necessary, specific information to fully understand how the potential pricing models would be implemented, and these specifics should be more comprehensively fleshed out before the Commission adopts any given model. The Companies note, however, that if it is the policy of Pennsylvania to continue to promote renewable energy through long-term contracts, then the mechanisms that have been utilized by Met-Ed, Penelec and Penn Power to ensure full and current cost recovery for such long-term solar contracts, as well as to guarantee competitive neutrality between the default service provider and competitive EGSs (i.e. the use of non-bypassable riders and the sharing of credits on a load-share basis amongst all default service suppliers and EGSs alike), should be adopted under any of the Staff's proposed models.

**C. Billing**

One of the common elements of the three proposed models outlined in the March 2 Order is the use of supplier consolidated billing and the availability of third party billing. The Companies do not support a shift in billing responsibility to take place at the same time as a shift of default service responsibility, as it would likely be confusing to customers. To minimize customer confusion and complaints, only one change should be implemented at a time to allow the supplier to fully focus its efforts on the effective transition of each component to ensure satisfactory results. With respect to Model A as outlined in the Commission's discussion document, the Commission should adopt the Companies' recommendation that the EDCs continue providing the consolidated billing function, and default service suppliers should be required to use bill-ready billing. Rate-ready billing simply is not cost-efficient for variably-priced products, and the use of rate-ready billing for variably-priced products would require an EDC to change the rates in its billing system on a monthly basis for each EGS serving its territory. This frequency would be unnecessarily costly and would unreasonably require the expenditure of additional resources and time as compared to another viable and available option, such as bill-ready.

To the extent that the Commission would disagree and recommend a transfer of billing responsibility to a default service supplier other than the EDCs, there are a number of factors that must be addressed in doing so. As a general matter, the existing credit requirements in the

Companies' supplier tariffs do not provide the extent of security that would be necessary to properly protect the Companies where supplier consolidated billing is implemented. Therefore, EDCs should be given the opportunity to review their existing credit requirements and update them as necessary to accommodate the increased risk that would accompany such a billing structure.

In addition, the billing party should be responsible for the purchase of receivables; in this instance, the EGS would be administering such programs. As such, it would be appropriate that additional credit requirements be implemented in order to fully protect the utilities from the risks attendant with such a billing structure. The shift of responsibility for the purchase of receivables from the EDC to the EGS in this instance, however, could present potential concerns with the ability of an EGS to terminate service for nonpayment under Chapter 56 of the Commission's regulations[4] and Chapter 14 of the Public Utility Code.[5]

Furthermore, the Companies agree that the proper application of LIHEAP funds to income-eligible customer accounts must be carefully considered in the event that EGS consolidated billing is implemented. The Commission should ensure that this process is specifically addressed in the development of a billing model to properly credit LIHEAP subsidies in a way that will not be impacted by the change of default service or billing model.

Finally, several points should be addressed regardless of the outcome of the Commission's determination as to which model is adopted and where responsibility for billing falls, in the event that EGSs take over the provision of default service. First, all customer billing calls should be directed to the default service supplier, as EDCs will not be in a position to be able to properly respond to inquiries of this nature. It would be unfair and inappropriate to impose upon EDCs the burdens associated with responding to calls for services that they themselves do not provide. In fact, EDCs may be prohibited under the Commission's Code of Conduct to speak to any of these customer concerns.[6] Second, the settlement of costs associated with load allocation should remain with the EDCs regardless of the model and billing structure

[4] 52 Pa. Code § 56.81.
[5] 66 Pa.C.S. § 1401, et seq.
[6] 52 Pa. Code § 54.122(9) (prescribing what information an EDC may provide its customers with regard to EGS service).

implemented. There is simply no other entity properly situated to allocate each EDC's load between load serving entities in an impartial manner.

### D. Need for Legislative and Regulatory Reform

Changes to the default service policy currently embodied in the statute and regulations would likely require reform. Such legislative and regulatory reform may be necessary to implement any of the three potential models because some of the elements may be inconsistent with current law. Any inconsistencies should be addressed prior to the implementation of any alternative model, because it would be unfair to put EDCs in the position of being in violation of a statute or regulation in order to comply with certain Commission directives.

Specifically, the Electricity Generation Customer Choice and Competition Act as amended by Act 129 of 2008[7] requires that a default service provider supply a "prudent mix" of default service supply "to ensure the least cost to customers over time."[8] The Companies question whether this current standard can be satisfied by Model A (calling for the use of real time pricing) or Model B (returning to a previously repealed prevailing market prices standard), as outlined in the Commission's discussion document.

Moreover, the Companies do not believe the existing statute contemplates a separation of the default service provider and provider-of-last-resort roles. Under current law, these roles appear to be one and the same. The Companies do not support a secondary layer of default service being provided by EDCs, and they do not believe the current legal structure provides for such a dichotomy of roles.

## III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company share the Commission's objective to foster retail competition throughout their service territories and the Commonwealth and appreciate the opportunity to provide comments on this important topic. While the Companies remain open to potential policy changes to the existing default service model that could enhance competition and provide increased benefits to customers, they remain steadfast that any such changes not place

[7] 66 Pa.C.S. § 2801, et seq.
[8] 66 Pa.C.S. § 2807.

any undue risk or cause financial harm to EDCs. The Companies respectfully request that the Commission consider these comments in its consideration of any alternative end state default service model.

**Retail Markets Investigation**
**Statewide Consumer Education Campaign Development**

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| **Date:** | **April 4, 2012** |
| **Submitted to:** | **RA-RMI@pa.gov** |
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Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power") and West Penn Power Company ("West Penn Power") (collectively, the "Companies") submit the following comments regarding the development of a statewide consumer education campaign.

The Companies continue to support the Commission's efforts to communicate and educate customers about the ability to choose an alternative electric supplier and the benefits of shopping. The Companies support the development of consumer education initiatives, including a statewide consumer education campaign, so long as EDCs are authorized to fully and currently recover any and all costs associated with funding such initiatives. This can be accomplished through existing Consumer Education Charge Riders or other reconcilable riders authorized under Section 1307 of the Public Utility Code.

Each of the Companies already has a Consumer Education Charge Rider in place or pending approval, and all costs directed to be funded by EDCs to support a statewide consumer education campaign developed during the RMI process must be entirely recoverable on a full and current basis through those, or similar, mechanisms. Furthermore, if a statewide consumer education campaign is adopted, EDCs should replace or supplement the programs within their existing consumer education plans with the initiatives of the statewide campaign. Therefore, all of the associated costs would be recovered on a full and current basis through the Consumer Education Charge Riders.

While the Companies have cost recovery mechanisms in place (or pending) that can be utilized to implement a policy decision to provide funding for a statewide consumer education campaign, the Companies are not opposed to the costs of a statewide education campaign being funded by entities other than the EDCs' ratepayers. If it is decided that retail EGSs should be responsible for these costs, since they are the direct beneficiaries of any statewide consumer education campaign, the Companies believe that the proposal to collect such costs through the purchase of receivables ("POR") mechanisms in EDC supplier tariffs is not appropriate. The Companies' POR mechanism is only applied to EGSs that utilize EDC-consolidated billing for

residential and commercial customers. Therefore, cost collection structured through the POR mechanism would result in an inequitable cost distribution because EGSs that utilize dual billing would completely avoid any cost responsibility for implementation of a statewide consumer education campaign. Such an assignment of cost responsibility would be inconsistent with cost-causation principles of traditional ratemaking. For this reason, if an EGS funded alternative to EDCs' consumer education riders is considered to provide funding for a statewide education campaign, the Companies believe there are more appropriate and better alternative cost collection mechanisms that could be utilized and would provide for a more equitable distribution of costs among EGSs.