

COMMONWEALTH OF PENNSYLVANIA

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**Testimony before the
Pennsylvania Public Utility Commission
in the Investigation of Pennsylvania's Retail Electricity Market**

The Office of Small Business Advocate (“OSBA”) filed written comments in the Investigation of the Retail Electricity Market. Those comments recommended that neither the Commission nor the General Assembly change the current default service model at this time. Thank you for the opportunity to highlight some of the OSBA’s key arguments.

1. Measuring Success

The success or failure of retail competition should be measured by whether customers have a reasonable opportunity to shop and not by how many customers take advantage of that opportunity.

There already is a significant amount of shopping by small business customers. For example, the Commission has calculated that almost 30% of Commercial customers are shopping. That represents 55% of the Commercial load.

It is likely that some small business customers are unaware of their shopping opportunities, are confused by the process, or both. The solution is to improve customer

education. The solution is *not* to pressure those customers into shopping by ending default service, by making default service rates “ugly,” or by assigning customers to service by an electric generation supplier (“EGS”) on an opt-out basis.

The political mandate is to *reduce* the role of government. It would be inconsistent with that mandate to force customers to shop for electricity because government has decided that “it’s good for them.”

2. Savings Not Universal

Because their load profiles vary considerably, it would be incorrect to assume that all small business customers (or even most of them) would save money if they shopped for electricity. For example, a customer could waste money by shopping if the percentage of its usage on-peak is more than the average for its default service procurement group.

3. Faulty Comparison

Unlike an EGS, a default service provider is prohibited from requiring a customer to take service for a specified period of time and from limiting a customer’s return to service. Therefore, the EGS’s rate may sometimes be lower than the default service rate simply because the EGS does not face the same switching risk as a wholesale bidder in a default service procurement.

4. Savings v. Costs

The assumption that more small business customers should shop also ignores the competing demands for their time and attention. The municipal aggregation agreement FirstEnergy Solutions (“FES”) negotiated with the City of Meadville illustrates that point.

FES promised a 4% discount from the default service rate for small business customers with maximum peak loads of 25kW or below. A Penelec customer with a 25 kW maximum peak load would have saved \$31.26 per month. A Penelec customer with a maximum peak load of only 5 kW would have saved only \$3.13 per month.

It is questionable whether potential savings of that magnitude are sufficient motivation for the smallest of the small business customers to devote the time and effort required to shop.

5. Empirical Data

Performance under the current default service plans should provide an empirical basis for determining what effect, if any, the choice of procurement methodology, contract lengths, quantity of spot market purchases, and procurement dates has on shopping. Until that evidence has been assembled and analyzed, neither the Commission nor the General Assembly should change the design of default service.

6. Opt-Out Assignment to EGSs

PECO's Market Share Threshold ("MST") Program illustrates why assigning customers to service from an EGS on an opt-out basis would be bad public policy. Although small business customers initially received a discount off PECO's default service rate, that discount disappeared for at least some customers over time. In fact, one of the small business customers who complained to the OSBA was being charged \$0.28 per kWh in mid-2008, before the collapse of energy prices.

Assigning a customer to an EGS will not ultimately benefit that customer if, after the introductory period, the EGS can set the rate at whatever the market will bear. As shown by PECO's MST Program, inertia is likely to keep a customer from shopping for a

better deal, or from returning to default service, unless the EGS's rates spike, thereby causing the customer to inquire into those rates. In effect, the *EGS* will be the beneficiary of "status quo bias."

In any event, assigning small business customers to an EGS on an opt-out basis would require amendments to the Public Utility Code. Under current law, a customer automatically receives default service if the customer does nothing. Therefore, the Commission lacks the legal authority to force customers to act affirmatively to receive default service. In that regard, the Commission has already decided that opt-out municipal aggregation would violate the statutory prohibition against slamming.

I would be happy to answer any questions you may have.