

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**RULEMAKING RE ELECTRIC :
DISTRIBUTION COMPANIES' : DOCKET NO. L-00040169
OBLIGATION TO SERVE RETAIL :
CUSTOMERS AT THE CONCLUSION :
OF THE TRANSITION PERIOD PURSUANT :
TO 66 PA C.S. § 2807(e)(2) :**

**COMMENTS OF CITIZENS' ELECTRIC COMPANY
AND WELLSBORO ELECTRIC COMPANY TO
ADVANCE NOTICE OF FINAL RULEMAKING ORDER**

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I. INTRODUCTION

On February 9, 2007, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued an Advance Notice of Final Rulemaking Order regarding the statewide default service regulations that the Commission must promulgate pursuant to Section 2807(e)(2) of the Electricity Generation Customer Choice and Competition Act ("Competition Act"). 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-00041069, Advance Notice of Final Rulemaking Order entered February 9, 2007 ("ANOFR"). The ANOFR and a Proposed Policy Statement issued the same day are designed to govern the obligation of electric distribution companies ("EDCs") to serve retail electric customers at the conclusion of the transition periods. See ANOFR, p. 5; see also Default Service and Retail Electric Markets, Docket No. L-00070183, Proposed Policy Statement entered February 9, 2007 ("Proposed Policy Statement"). The ANOFR and Proposed Policy Statement are the result of a three-year process undertaken by the Commission to address this important issue under the Competition Act.

Citizens' Electric Company of Lewisburg, PA ("Citizens") and Wellsboro Electric Company ("Wellsboro") (collectively "the Companies") are smaller EDCs who have completed the transition period. As explained in prior Comments, the size of the Companies' service territories and characteristics of their customer base may necessitate flexible treatment under the final default service regulations and policy statement. The Commission has eliminated many of the proscriptive proposals from the originally-issued proposed regulations and provided substantial flexibility for default service providers in the proposed regulations attached as Annex A to the ANOFR. Citizens' and Wellsboro will explain in these Comments various adjustments

to the proposed regulations that could be implemented to better reflect the needs of smaller EDCs serving the default service function. Citizens' and Wellsboro also reiterate their suggestion to confirm in the final regulations the ability of smaller EDCs to seek waivers of the subchapter to the extent necessary to reduce regulatory, financial or technical burdens, or as otherwise in the public interest.¹

II. COMMENTS

The Commission implemented several changes to the proposed regulations in the ANOFR. Specifically, the revised regulations permit the reconciliation of all costs and encourage the default service provider to purchase a portfolio of energy supply products in the procurement plan. The Commission states that it intends to mirror the regulatory format used for natural gas supply costs by requiring periodic adjustments to the default service rates to reflect changes in the actual, incurred costs of the default service provider. See ANOFR, p. 4.

In general, Citizens' and Wellsboro support many of the modifications reflected in the proposed regulations attached to the ANOFR. Citizens' and Wellsboro also support the Commission's use of a Proposed Policy Statement to address more detailed implementation issues related to default service plans. As set forth below, the Companies suggest various incremental changes to the proposal to better meet the needs of customers in small EDC service territories.

A. Proposed Section 54.186-Default Service Procurement and Implementation Plans.

In the proposed regulations, the Commission requires the electric generation supply for default service to be acquired either through competitive bid solicitation processes, spot market energy purchases, or a combination of both. ANOFR, Annex A, § 54.186(b)(4). The Proposed

¹ Citizens' and Wellsboro also support the comments submitted by the Energy Association of Pennsylvania.

Policy Statement issued concurrent with the ANOFR also encourages default service providers to use a portfolio approach to procuring default supply. Proposed Policy Statement, p. 4. Citizens' and Wellsboro do not object to the use of competitive solicitations and the encouragement of a portfolio approach to obtaining the wholesale supply for default service. Due to the small nature of their loads, however, it may not be feasible for Citizens' and Wellsboro to individually (or jointly) fulfill both objectives. Specifically, the Companies believe that their loads may be too small to enter into multiple competitively-bid contracts and/or hedges as part of a procurement plan, even if both loads are aggregated.

Citizens' and Wellsboro may be able to design a competitive process to solicit entities that are willing to administer the portfolio procurement approach, during which the contract would be awarded to the entity requesting the more competitive (i.e., lower) compensation. Citizens' and Wellsboro seek clarification that this approach would be consistent with the Commission's intent and, if not, then request appropriate modifications to the proposed regulations to accommodate this approach. Similarly, to the extent necessary, the language in Section 54.186(c)(4) should be clarified to confirm that engaging an entity to administer a portfolio approach based on a competitive bidding process is consistent with the Commission's expectation regarding "price determinative bid evaluation criteria."

B. Proposed Section 54.187 – Default Service Rate Design and Recovery of Reasonable Costs.

The Commission's ANOFR modifies the rate options available to retail customers to require a Price To Compare ("PTC") for each default service customer. ANOFR, Annex A, § 4.187(b). The PTC must be adjusted periodically to "ensure the recovery of costs reasonably incurred in acquiring electricity at prevailing market prices and to reflect the seasonal costs of electricity." See id. §§ 54.187(h), (i) & (j). For customer classes with maximum registered peak

loads of up to 500kW, the proposed regulations state that the PTC should be adjusted on a quarterly basis (or more frequently). Id. §§ 54.187(h) & (i). For customer classes with a registered peak load of equal to or greater than 500kW, the PTC shall be adjusted on a monthly basis, or more frequently. Id. § 54.187(j). The regulations authorize default service providers to propose alternative divisions of the PTC options to preserve current customer classes.

The Commission's ANOFR states that the proposed default service regulations are designed to be similar to the natural gas supply cost adjustments under Section 1307 of the Public Utility Code. ANOFR, p. 4. As the Commission is aware, however, the procedures for quarterly adjustments to natural gas supply rates apply only to those natural gas distributors with gross intrastate annual operating revenues in excess of \$40,000,000. 66 Pa. C.S. § 1307(a). Smaller natural gas distributors change natural gas supply rates once per year, with the ability to submit an interim filing between the scheduled annual rate changes to the extent necessary to avoid a substantial overcollection or undercollection of natural gas supply costs. 52 Pa. Code §§ 3.66 & 53.67.

The administrative burden that would be placed on smaller EDCs to implement monthly or quarterly default electric service rate changes is equivalent to the burden on Group I or II gas utilities to implement mandatory quarterly gas cost changes. As a result, Citizens' and Wellsboro respectively request for this element of the natural gas supply regulatory regime for smaller natural gas distribution companies to be incorporated into the electric default service regulations. Specifically, the Companies suggest for EDCs with gross intrastate annual operating revenues less than \$40,000,000 to be permitted to implement annual PTC changes, with more frequent modifications permitted to avoid substantial overcollections or undercollections.

C. Proposed Addition: Criteria for Waiver of Regulations.

As the Commission acknowledged in the ANOFR, aspects of the revised regulations represent substantial departures from the original proposals. See ANOFR, p. 4. The regulations may be further modified by the Commission after solicitation of Comments in this process. Citizens' and Wellsboro have attempted to highlight the major issues where the Companies believe that the proposed regulations may depart from what is feasible for small EDCs and in the best interests of the customers in their territories. It is likely, however, that Citizens' and Wellsboro have not identified every aspect of the final regulations that may be difficult for smaller EDCs to implement.

Although the Commission arguably retains the ability to waive any regulation through a request submitted pursuant to Section 1.91 of the Commission's regulations, Citizens' and Wellsboro respectively suggest that inserting a waiver provision into the final regulations specifying the conditions under which a request will be granted will provide necessary guidance and standards by which such request will be reviewed. As set forth in the Companies' prior Comments, Citizens' and Wellsboro suggest the addition of a new subsection to the regulations, stating:

Any default service provider serving a territory with less than 50,000 retail customers can seek a waiver of any part of this subchapter. The Commission will grant such waivers to the extent necessary to reduce the regulatory, financial or technical burden on the default service provider or to the extent otherwise in the public interest.

III. CONCLUSION

The Commission is completing a long process to develop statewide default service regulations under the Competitive Act. These regulations will provide the default service providers, Electric Generation Suppliers, wholesale suppliers and customers with the necessary certainty regarding the correct structure for default service. Citizens' and Wellsboro appreciate the opportunity to participate in this process to assist the Commission in understanding the needs of the smaller EDCs in Pennsylvania to ensure that regulations are adopted that meet the needs of all citizens in the Commonwealth.

Respectfully submitted,

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