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March 23, 2007

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, Pennsylvania 17105-3265

Re: 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

AND

Default Service and Retail Electric Markets Proposed
Policy Statement
Docket No. M-00072009

Dear Mr. McNulty:

The Energy Association of Pennsylvania (the "Energy Association") encloses the original and fifteen (15) copies of its Reply Comments to the comments filed under the Commission's February 9, 2007 Advance Notice of find Rulemaking Order and Proposed Policy Statement at the above referenced dockets.

Cordially,

A handwritten signature in black ink that reads "Donna M.J. Clark". The signature is written in a cursive style and is positioned above a horizontal line.

Donna M.J. Clark
Vice President & General Counsel

CC: Hon. Wendell Holland, Chairman
Hon. James H. Cawley, Vice Chairman
Hon. Terrance J. Fitzpatrick
Hon. Kim Pizzingrilli
Shane Rooney at srooney@state.pa.us (electronic format)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Re Electric Distribution :
Companies' Obligation to Serve :
Retail Customers at the Conclusion : Docket No. L-00040169
of the Transition Period Pursuant to :
66 Pa. C.S. § 2807(e)(2) :

AND

Default Service and Retail Electric : Docket No. M-00072009
Markets Proposed Policy Statement :

REPLY COMMENTS of
THE ENERGY ASSOCIATION of PENNSYLVANIA

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Date: March 23, 2007

I. OVERVIEW

On February 9, 2007, the Honorable Pennsylvania Public Utility Commission (the "Commission") issued an Advance Notice of Final Rulemaking Order ("the Rulemaking order") and a Proposed Policy Statement ("the Policy Statement") defining the obligations of electric distribution companies ("EDCs") and their successors to serve retail electric customers at the conclusion of the EDC's transition periods, and redefining electric rate structure. Interested parties were given until March 2, 2007 to file written comments and then an opportunity to file reply comments on or before March 23, 2007.

The Energy Association of Pennsylvania (the "Association") on behalf of the listed electric members files these reply comments¹. We do so recognizing that the Commission's task to determine the obligations of a default service provider ("DSP") and the energy policy future for the Commonwealth are delicate assignments.

The diversity of opinion, the multitude of commentators and the significant number of issues are a daunting task to reply to much less rule on.

Clearly the Commission is endeavoring to avoid the quagmires that have occurred in states like Maryland and California. A soft landing during a time of significant change and often avoidance of rate shock is a worthy public interest goal.

Yet despite the Commission's sincere attempts to avoid rate shock, the Commission's orders, policies and statements have brought about the doctrine of unintended consequences, namely that the elimination of demand rates and declining block rates will cause rate shock for numerous customers.

¹ Allegheny Power, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, PECO Energy Company, and UGI Utilities, Inc. – Electric Division

II. RATE DESIGN CHANGE SHOULD BE CAUTIOUS

These two proposed rate design charges are in place without any notice to customers. As observed in a number of comments (PECO pages 10-12 IECPA pages 9-11, Allegheny pages 10-12) there are going to be customers who will experience individual rate shock of rather drastic proportion. When an industrial customer with a high load factor experiences a 70%+ rate increase and leaves the State and its Pennsylvania employees stranded, it will be too late to undo.

When an electrically heated school experiences a significant double digit increase in electric rates leading to property tax increases, the Commission's intentions no matter how intellectually pure will be called into question. Each of these customers could potentially undo the Commission's declarations of concern because there has been no notice to actual customers that such rate changes were being contemplated.

In addition, to a due process vulnerability, the proposed rate change is inherently unfair to educated customers who have over the years made financial, operational, and purchasing decisions on the rate design features found just and reasonable by the Commission in adjudicated rate proceedings.

Such reliance upon the Commission's current regulatory decisions should not be lightly dismissed. The Commission, through its proposed pricing policy change, is individually and collectively collaterally attacking its prior rate decisions involving the EDCs.

The Commission can certainly amend, cancel or change its prior decisions, yet the process is made easier if published notice occurs. For example, as support for its rate design changes, the Commission favorably references the recent Duquesne rate increase filing. Yet while Duquesne has prepared a case in concert that is complimentary to the PUC desired rate design, Duquesne had to provide published public notice. Further, comments of all customers will be taken in as evidence in public hearings. No such public due process exists for the remaining EDCs or their customers.

The current rates of the other EDCs have been designed to reflect cost of service and each has its own encouragement for conservation, energy efficiency and thoughtful use of the electrical service. As the Commission is well aware, some of the costs related to transmission, distribution, and generation are demand driven. Eliminating the reflection of these demand costs in rates is not only improper rate design but is also counterintuitive. This is especially true when the Commission is urging the reduction of demand to be reflected in rate design, billing, and operations.

The Commission has an historic level of trustworthiness stemming from its recent history of educating consumers on energy related issues. The Commission is proposing to have the industry undertake a major advertising campaign to make customers more aware of potential future rate increases. The Association would ask the Commission to consider what credibility either the EDCs or the Commission will have with customers who have experienced rate shock coming from undisclosed, and unequal rate shocks to some, yet not all customers.

To summarize, the Commission can clearly provide direction on its preferences, its interpretations and allocation of cost procedures. What the Commission should not do, is to undermine due process and cause the very rate shock that it is seeking to avoid.

III. DEFAULT SERVICE SUPPLY DIVISION SHOULD NOT BE PRESCRIPTIVE

The Commission throughout its proposed Rulemaking Order and Policy Statement has correctly noted its preference to be flexible and avoid being too prescriptive. As the Commission noted it has not attempted "to dictate the exact manner by which every DSP will acquire electricity, adjust rates and review their costs."

A slight departure from that theme was the discussion requiring that default service supply should be split into four customer groups based upon maximum registered peak demand. The defined four classes are generalized, not company specific nor reflective of market opportunities.

Each EDC should be permitted to develop its own customer class designation. The Commission can easily review the customer class designations during its review of the particular DSP's overall default service program.

The industry understands that the Commission is unlikely to approve a process whereby an entire default service load is secured at the same time. However, management discretion to evaluate markets, price trends, and contractual remedies should be preserved.

IV. SMALLER ENTITIES HAVE COST FACTORS THAT REQUIRE SPECIAL CONSIDERATIONS

Citizens and Wellsboro have appropriately revised the issue that their size needs to be recognized in the crafting of rules surrounding DSP. (Citizens/Wellsboro comments pages 2-6)

It would appear that the Commission is already inclined to address their specific issues. As the Commission observed in its policy statement wherein it rejected the concept that one size fits all when it comes to default service and further when the Commission stated that "each DSP should craft an approach best suited to its own service territory". (Policy Statement page 4)

As noted in the Citizens/Wellsboro comments the Commission is seeking to have the proposed default service regulations be similar to the natural gas supply cost adjustments under Section 1307 of the Public Utility Code. As the Citizens/Wellsboro comments correctly note Section 1307 has revenue size requirements 66.Pa.C.S. § 1307(a). Furthermore smaller gas entities can file once a year or for interim relief pursuant to 52 Pa. Code §§ 3.66 and 53.67.

The Commission has recognized size considerations elsewhere. For example in the telecommunications area, pursuant to the first Chapter 30, and still further in permitting expedited rate review for smaller water utilities.

Whether the Commission acts by permitting a waiver of the DSP rules for smaller entities (Citizens/Wellsboro page 5) or through specific special rules for smaller entities

(Citizens/Wellsboro pages 3-4), it is abundantly clear that the public interest is served by providing flexibility to the smaller EDCs.

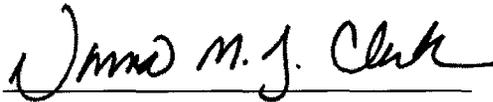
V. CONCLUSION

The Association would request that the Commission refrain from major rate design changes due to significant due process shortcomings and the potential to undermine our collective ability to address rate design changes through consumer education. Also of concern is artificial default service classifications for all EDCs regardless of customer base, demand circumstances, or market conditions. Diversity and flexibility are more desirable. Finally, the Association would urge that the differences surrounding smaller EDCs and larger EDCs be recognized as it pertains to DSP.

Respectfully Submitted,



J. Michael Love
President & CEO



Donna M. J. Clark
Vice President & General Counsel