BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation of Pennsylvania's Retail Electricity Market	: :	Docket No. I-2011-2237952

COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE
AS TO THE *EN BANC* HEARING OF NOVEMBER 10, 2011

Darryl Lawrence
PA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org
Aron J. Beatty
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org
Jennedy S. Johnson
PA Attorney I.D. # 203098
E-Mail: JJohnson@paoca.org
Assistant Consumer Advocates
Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: November 23, 2011

As part of its Retail Market Investigation, the Pennsylvania Public Utility Commission (Commission) issued a Secretarial Letter on October 7, 2011, advising all interested parties that an *en banc* hearing would be held on November 10, 2011. The stated purpose of the hearing was to provide an opportunity for participants to discuss their views on the Commission's potential next steps in promoting retail electric competition. The Office of Consumer Advocate (OCA) actively participated in the *en banc* hearing. The Secretarial Letter also provided that interested parties could submit written comments after the *en banc* hearing for the Commission's consideration in developing an intermediate work plan. The OCA appreciates this opportunity to provide the following *en banc* hearing comments.

The OCA submits that the information provided during the *en banc* hearing will be of assistance to the Commission and the stakeholders as consideration of the retail electricity market in Pennsylvania continues. Of particular interest to the OCA were the survey materials presented at the *en banc* hearing. As many of the stakeholders discussed at the hearing, the surveys provided consistent results that showed that a significant percentage of Pennsylvania residents, nearly 90%, are aware of retail electric choice in Pennsylvania. See, Alpha Buyer presentation, Zogby International and Terry Madonna Opinion Research Survey (Dr. Madonna Survey). The survey results reveal the success of the efforts of the Commission, the electric distribution companies (EDCs), the electric generation suppliers (EGSs) and the OCA in informing Pennsylvania residents about the opportunity to select an alternative generation supplier. The Commission in particular has been a national leader in its consumer education efforts since the inception of retail choice in 1999 from its "Where do you think you are, Pennsylvania?" campaign to its most recent efforts with the development of PAPowerSwitch.com.

The surveys provided additional insights about retail electric choice. Dr. Madonna's Survey provided some particularly helpful information and insights that should be of use to the Commission in its current next-steps planning process. As noted, Dr. Madonna's Survey found that 88% of the survey participants are aware that they can shop for a new generation supplier. Equally interesting, though, is that of those participants who are aware that they can exercise a choice in this matter, about one half of these consumers have looked into switching to an alternative supplier. While not all customers that shopped around ultimately switched to an alternative supplier, the key survey result here is that about half of the customers took the time to engage in the market to see what options and benefits might be available. One of the challenges for the upcoming consumer education efforts is to now find the message and approach that best encourages more customers to understand the potential benefits of shopping for an alternative generation supplier and to provide those customers with the tools to engage easily in the retail market.

In that regard, one important finding of Dr. Madonna's Survey was the positive response of survey respondents that had used the PAPowerSwitch.com website. Of those survey respondents that used PAPowerSwitch.com, 87.3% indicated that the site was "easy to use and understand." The challenge revealed by the survey was in making more consumers aware of the website and getting more consumers to visit the website. Even of the survey respondents that had shopped for alternative suppliers, only about one third of the respondents had heard of the site. The OCA submits that additional outreach and education about PAPowerSwitch.com, and also the OCA's Shopping Guide at www.oca.state.pa.us should be considered by the Commission as it develops its intermediate work plan.

While awareness of retail electric choice is high, and many customers have engaged in the market in search of alternative suppliers, the surveys also found that about 25% of the survey respondents are now being served by alternative suppliers. This finding is consistent with the percentage of residential customer switching statewide which is now reported at 23.6%.[1] In some service territories, such as PPL Electric Utilities, Inc. and Duquesne Light Company, the percentage of residential customers that have switched is higher, around 40.6% for PPL and 31% for Duquesne.[2]

A key insight into this statistic was provided by the surveys. The surveys all found that identifiable savings are an integral part of a customer's interest in and satisfaction with the shopping experience. In Dr. Madonna's Survey, when customers were asked the main reason why they changed their supplier – over 95% responded as "reduce costs." The other surveys by Alpha Buyer and Zogby International also identified price or savings as being a primary driver. In the OCA's view, the surveys support the conclusion that it is the ability to verify and identify specific levels of savings or benefits obtained by switching generation suppliers that is critical to both the switching decision and the long-term satisfaction level of consumers with their shopping experience.

To that end, the OCA submits that customer awareness of identifiable savings and the transparency of the Price to Compare (PTC) of the default service product are closely related.[3] As the OCA discussed in its November 3 Comments, a price to compare (PTC) that changes less frequently would give consumers more confidence in their decision to accept an

---

1 From PAPowerSwitch.com, available at http://extranet.papowerswitch.com/stats/PAPowerSwitch-Stats.pdf?/download/PAPowerSwitch-Stats.pdf

2 Id.

3 See OCA November 3 Comments at pgs. 37-39.

EGS offer. In its Tentative Order, the Commission had suggested a PTC that changed every six months instead of quarterly adjustments. As the OCA noted in its November 3 Comments, a semi-annual default service rate adjustment would give customers greater confidence in accepting EGS offers and would address some of the identified issues with the time it takes to effectuate the customer's choice. The OCA also supports proposals by some EDCs to reconcile over and under collections over a 12-month period rather than a 3-month period. The OCA recommended in its November 3 Comments that an annual reconciliation process for over and under collections be used to bring more stability and certainty to the price to compare so that customers can make a better choice.[4] The OCA submits that a relatively stable price to compare (PTC) along with a "plain-vanilla" default service offering will enable customers to participate in shopping and switching without the level of uncertainty that currently exists due to frequent changes and fluctuations in the PTC.

Other reasons for not switching suppliers emerged in the survey results. In general, survey respondents expressed the opinion that the process might be too time consuming, it was confusing, it could be risky, it could be a hassle, or it could be a scam. The OCA submits that the Commission has the opportunity to address some of these concerns through the intermediate work plan. Two programs have been under consideration that may allow customers to engage in the retail market in a relatively easy fashion without undue risk or confusion if properly designed. As the OCA has set forth in its November 3 Comments, the OCA believes that work should continue on the potential use of a one-time retail opt-in auction as a further means to raise customer interest in shopping and as a means to provide an easy method for the

[4] OCA November 3 Comments at 37-38.

customer to obtain some savings from the retail markets.[5] The OCA also supports continued work on referral programs for new and moving customers that can also provide a means for customers to be educated about the retail markets and provide an easy method for the customer to make a choice.[6] As discussed in the OCA's Comments, both programs must be properly designed with reasonable safeguards so as to not harm customers, default service or competition.

The OCA submits that the Commission should continue to consider a number of competitive enhancements as part of its intermediate work plan. A PTC that changes less frequently, as part of a plain-vanilla default service offering is one such initiative. Further education and outreach efforts to inform customers about the shopping experience and the tools available to them to fairly evaluate the varying EGS' offers would also seem to be in order. Also, efforts should continue on the potential to develop a retail opt-in auction that might jumpstart the market and generate interest in shopping. Similarly, efforts to develop a referral program for new and moving customers could provide benefits for the retail electricity market.

The competitive enhancements and education efforts that have been the subject of the intermediate work plan discussions all seem to have the right focus based on the survey results reviewed at the *en banc* hearing. Most importantly, in the OCA's view, all of these competitive enhancements can be done in accordance with the law, and if properly designed, can be implemented within the requirements of Act 129 regarding default service. Great care must be taken in the design and implementation of these efforts, however, so as to not disrupt or harm default service, consumers, or the competitive markets.

The OCA submits that despite our best efforts to have consumers consider the options in the retail competitive market, there will be a substantial number of customers who do

---

5 OCA November 3 Comments at 13-25.

6 OCA November 3 Comments at 25-34.

not wish to make a choice or cannot make a choice as there are no offers available that serve their needs. Electricity is an essential service and it must always be available on reasonable terms and conditions for all customers from an entity that is specifically tasked with the obligation to provide service on a default basis. The General Assembly clearly recognized this point in 1996 when it enacted the Electricity Generation Customer Choice and Competition Act and again in 2008 when it enacted Act 129.[7] The General Assembly has made clear that reliable, affordable and stable electric service procured at the least cost over time must be available to all customers.[8]

The OCA submits that Pennsylvania has developed a sound model for both default service and for retail electricity markets that work well together. At what is still a very early stage of the introduction of full retail choice in Pennsylvania, great strides have been made in making customers aware of choice, of providing customers the tools to make a choice, and in getting customers to consider offers that may provide benefits to them. In the OCA's view, all consumers are receiving the benefits of competitive wholesale generation markets – whether they shop or not – and many consumers in Pennsylvania are also fully engaged in the retail market as well. We must continue our efforts to identify and address unnecessary barriers, improve processes, and educate consumers on the potential benefits of choice. All of these efforts can and must be achieved in accord with the Public Utility Code and must preserve the necessary consumer protections for this essential service.

---

7 66 Pa.C.S. § 2802(9); Preamble to Act 129, 2008 Pa. Laws 129.

8 See Preamble to Act 129, 2008 Pa. Laws 129.

III. CONCLUSION

The OCA thanks the Commission for this opportunity to comment on these important issues. The OCA looks forward to continuing to work on these issues to find ways to educate, inform and facilitate a customer's choice in accordance with the law.

Respectfully Submitted,

Darryl Lawrence
PA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org
Aron J. Beatty
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org
Jennedy S. Johnson
PA Attorney I.D. # 203098
E-Mail: JJohnson@paoca.org
Assistant Consumer Advocates
Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

November 23, 2011

150594