

choices. In addition, the Commission proposed a small business outreach plan to enhance the shopping experience on PAPowerSwitch.com for small business owners. FES generally supported the proposal in its Comments, with a few suggestions.²

Concern was expressed by other parties that the Consumer Education proposals, combined with additional promotional material about each of the retail market enhancements, may inundate customers with too much or duplicative information and cause confusion and frustration. FES appreciates this concern and reiterates its position that a well-coordinated and considered approach needs to be taken in rolling out all of the RMI programs, including the dissemination of education and marketing materials to consumers. Careful consideration must be given to the timing of the programs and the provision of information to customers in an effort to minimize customer confusion and assure the ongoing success of the competitive retail electric market in Pennsylvania.

B. Customer Referral Programs

Two customer referral programs were proposed by the Commission in the IWP, a “New/Moving Customer Referral Program” and a “Standard Offer Customer Referral Program.” The Commission invited comments on each of these proposals, as well as on referral programs in general. FES is in favor of customer referral programs, but has issues with parts of the Commission’s proposals as expressed in FES’s Comments³ and respectfully submits the following additional comments on issues addressed by other commenters.

Several parties felt that the implementation of two customer referral programs would be complicated, time-consuming, confusing and a potentially wasted effort given the scope of all

² *Comments of FirstEnergy Solutions Corp.* at 2-3.

³ *Id.* at 3-8.

the retail market enhancements. However, FES views the two proposed referral programs as separate and distinct from each other. The New/Moving Customer program addresses concerns with the automatic assignment of customers to EDC default service by having the EDC encourage customers to select a presumably better offer from an EGS. The program also acts to further educate customers about their ability to choose who provides their electric service. However, FES does not envision the EDC call center representatives as being responsible to actively solicit customers with EGS offers. The primary issue is whether the New/Moving Customer programs can be structured in such a way that EDCs can facilitate a process for new and moving customers to select an EGS on Day 1 of their new electric generation service. In cases where customers have already shopped, such customers should always be referred to their current suppliers for service at the new address without first being placed on EDC default service.

The Standard Offer Customer Referral Program, on the other hand, envisions an EDC actively placing customers on EGS service following customer contacts other than emergencies. The Commission proposed that this program would include an introductory price with the assigned EGS service continuing on a month-to-month basis thereafter. FES, like several other parties, does not support the introductory price component of the Commission's proposal⁴. However, with certain modifications, FES does support the longer term supplier bid programs similar to those that have been proposed by PECO and Met-Ed/Penelec/Penn Power/West Penn Power in their recently submitted default service plan filings.⁵

⁴ *Comments of Duquesne Light* at 15-16; *Comments of AARP, The Pennsylvania Utility Law Project and Community Legal Services, Inc.* at 11-12; *Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company* at 16-17

⁵ *Petition of PECO Energy Company*, Docket No. P-2012-2283641; *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company*, Docket Nos. P-2011-2273650, P-2011-2273668, P-2011-2273669 and P-2011-2273670.

If the Commission is determined to proceed with an introductory price as part of the Standard Offer Referral Program, FES disagrees with the Pennsylvania Energy Marketers Coalition's ("PEMC") statement that the percent off should be consistent across all markets in the state.⁶ Under PEMC's proposal, EDCs that have rates with little headroom (the difference between the PTC and market price) would determine the percentage discount statewide. As has been noted by several parties over the course of this investigation, headroom available to retail suppliers will vary in different EDCs due to different costs to deliver power to those EDCs across the state. Applying a standard percentage discount would be unfair to a large number of customers because customers in EDCs that have greater headroom will be denied an opportunity to receive larger savings that would otherwise be available in the marketplace.

FES agrees with the Office of Consumer Advocate that all customers, regardless of shopping status, should be eligible to participate in the customer referral program⁷ to prevent discrimination and customer frustration. FES notes that as part of the referral process, it should be made clear to customers who are already shopping that they should check the terms and conditions of their existing contracts prior to changing EGS service.

C. Retail Opt-in Auction Programs

The proper structure of Retail Opt-in Auction Programs has been the subject of considerable controversy in the RMI. As evidenced by the deliverable submitted by the retail opt-in auction subgroup to the RMI stakeholders prior to the issuance of the IWP and the Comments submitted on this topic, there is general agreement that a retail opt-in auction can promote competition but there continues to be a wide range of opinions as to the appropriate

⁶ *Comments of the Pennsylvania Energy Marketers Coalition* at 7.

⁷ *Comments of the Office of Consumer Advocate on the Commission's Tentative Order entered December 16, 2011* at 12.

way to implement such a program. In addition to its Comments previously provided on this subject,⁸ FES offers the following in response to certain Comments filed by other parties.

The Commission has correctly determined that pilot programs will not be included in the retail opt-in auction program. FES fully supports this determination, as did many other parties⁹, and continues to support the Commission's determination that pilot programs are unnecessary and counterproductive for the reasons stated in the December 16 Tentative Order. Considering the complicated interaction among the design and implementation of the RMI programs that are appropriate and necessary to support competitive retail markets, any attempt to layer on pilot programs would have an adverse impact on retail competition.

Some of the most controversial issues surrounding the retail opt-in auction programs concern the timing of EDC implementation and the scheduling of the various solicitations needed for the programs. FES believes there are a few key elements that are critical to the success of the retail opt-in auction program and the positive outcome it will provide to customers and the overall retail market. First, power flow from the retail opt-in auctions should begin on or around June 1, 2013 to coincide with the beginning of the Commission ordered 2-year default service filings by the EDCs. Constellation suggested that implementation of a retail opt-in auction will harm, tamper, and interfere with default service plan ("DSP") contracts that extend beyond June 1, 2013.¹⁰ However, retail opt-in programs will have a minimal effect on default service contracts with power flow beyond June 1, 2013 since it is FES' understanding that the majority of default service power to flow after June 1, 2013 has not yet been procured. FES

⁸ *Comments of FirstEnergy Solutions Corp.* at 8-17.

⁹ *Comments of Dominion Retail, Inc. to Tentative Order* at 6; *Comments of the Office of Consumer Advocate on the Commission's Tentative Order entered December 16, 2011* at 17; *Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company* at 20; *Comments of Duquesne Light* at 21; *Comments of PPL Electric Utilities Corporation on Tentative Order Entered December 16, 2011* at 16; *Comments of Exelon Generation Company in Response to the December 16, 2011 Tentative Order* at 3;

¹⁰ *Comments of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc.* at 9.

therefore recommends that timely notification of the impending retail opt-in auctions be provided to all bidders in existing and future default service plans with terms extending beyond June 1, 2013. This will allow those bidders to adequately address any shopping risk that may arise from implementation of retail opt-in auctions. One area of consensus among all the participants in the retail opt-in auction subgroup, which was comprised of representatives of all stakeholders including EDCs, was that the programs should “minimize” the effect on existing wholesale default service contracts,¹¹ and this recommendation as proposed accomplishes that objective.

Another point of contention is the timing or coordination of default service procurements with the retail opt-in auctions. Some commenters believe that EGSs need to know with certainty the number of customers participating in the program in order to submit an accurate bid with a competitive price. FES disagrees with this position and believes that suppliers can adequately manage volume risk by bidding on the load they are willing to serve at specified price levels in a descending clock auction. The auction clearing price where supply meets estimated demand is the price customers would receive before deciding whether or not to participate in the opt-in auction.

By having the retail auction prior to customer enrollment, customers will know the price at the time they choose to participate. FES agrees with other commenters¹² that this schedule will increase participation in the program. Customers should not be expected to sign up for a program that only provides them with “promises” and not a concrete offer that shows real savings. Suppliers are accustomed to load uncertainty and can manage that risk while customers are likely to shy away from the uncertainty of an unknown offer in the opt-in auction. Therefore,

¹¹ *Final Report of the Retail Opt-In Auction Subgroup (dated November 30, 2011)*

¹² *Comments of Duquesne Light at 23-24; Comments of Exelon Generation Company at 4-5; Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company at 22-24; Comments of Office of Consumer Advocate on the Commission’s Tentative Order entered December 16, 2011 at 18-19; Comments of PPL Electric Utilities at 17.*

the proper sequence of events to make the auction a success is to 1) conduct wholesale default service auctions which establish the price to compare, 2) conduct the supplier retail descending clock auction which establishes the price that opt-in customers will pay and 3) solicit customer opt-in participation to determine how much actual load each supplier will receive. The Commission has already expressed its concern that a “tentative offer” will not be well received by customers¹³ and FES agrees with this concern. Finally, customers should be able to realize the benefits of their participation as soon as possible and this can only be accomplished by having the enrollment immediately follow the retail auction.

FES disagrees with the customer participation cap recommendation by Duquesne Light Company (“DLC”). The Commission proposed a participation cap of 50% of residential customers in each EDC, but DLC recommended that the cap be no more than 50% of residential customers less the percentage of residential customers already shopping.¹⁴ The smaller the number of customers who participate in the retail opt-in auction, the more difficult it is to justify the time and effort required by all parties to implement the program at all. The current percentage of shopping customers is irrelevant to the discussion of a participation cap. In fact, FES believes that no customer participation cap is necessary at all. The retail market enhancements proposed in the RMI are intended to encourage non-shopping customers to shop. Artificially reducing the participation pool as DLC suggests will simply hamper the achievement of the Commission’s goals in the RMI.

The Commission recommended a choice of two products for the retail opt-in auction in the IWP: a fixed rate product with a bonus or a percent-off rate product with no bonus. In its

¹³ *Tentative Order* at 32.

¹⁴ *Comments of Duquesne Light* at 26.

Comments, FES suggested that the opt-in product be a fixed rate product with no bonus.¹⁵ Comments by numerous other parties clearly expressed a preference to exclude bonuses from the opt-in product.¹⁶

In its Comments DLC raised concerns about whether the “random assignment” of customers can be considered the affirmative selection of a supplier as required by the Public Utility Code.¹⁷ FES believes this concern is misplaced. By opting-in to the retail auctions, customers are providing affirmative selection of any of the suppliers participating in the programs and will be fully informed of the consequences of their election to participate. DLC’s alternative suggestion that suppliers should have to contact customers and confirm the service and enrollment choice will negatively affect the customer experience. The additional customer contact is unnecessary, would be confusing for customers and would add more time to the enrollment period, which the Commission has expressly stated it wants to be as short as possible.¹⁸

D. Default Service Price to Compare on Bills

DLC questioned the referral to PaPowerSwitch.com on commercial and industrial customers’ bills since the website does not contain PTC information for those customers.¹⁹ It is unclear whether DLC’s reference to “C&I” is intended to include small business customers. FES views PAPowerSwitch.com as a very good tool for customers to begin their shopping experience

¹⁵ *Comments of FirstEnergy Solutions Corp.* at 13-14.

¹⁶ *Comments of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc.* at 10; *Comments of Duquesne Light* at 28; *Comments of Exelon Generation Company* at 6; *Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company* at 26; *Comments of PECO Energy Company* at 9-10; *Comments of Washington Gas Energy Services, Inc. on Intermediate Work Plan* at 7.

¹⁷ *Comments of Duquesne Light* at 31.

¹⁸ *December 16 Tentative Order* at 31.

¹⁹ *Comments of Duquesne Light* at 32.

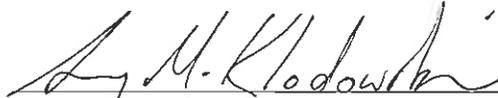
in a standard, easily understandable format. The decision makers for many small businesses are also residential decision makers. To the extent that PAPowerSwitch.com is going to be enhanced to include small commercial and industrial customer PTCs, the reference on those customers' bills will be appropriate.

III. CONCLUSION

FES appreciates the opportunity to submit these Reply Comments, thanks the Commission for its support for robust retail electric competition, and looks forward to continuing to participate in the Commission's efforts to improve customers' direct access to competitive markets throughout the Commonwealth.

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February 1, 2012