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February 1, 2012

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

On behalf of Direct Energy Services LLC ("Direct Energy") enclosed please find the original of its Reply Comments to the Tentative Order of December 16, 2011 along with the electronic filing confirmation page with regard to the above-referenced matter.

Sincerely yours,



Daniel Clearfield, Esq.

DC/lww  
Enclosure

cc: [ra-RMI@state.pa.us](mailto:ra-RMI@state.pa.us) w/enc.  
Karen Moury (via email only) w/enc.  
Daniel Mumford (via email only) w/enc.  
Kirk House (via email only) w/enc.



## II. CONSUMER EDUCATION

The Commission's T.O. provides an overview of its planned education efforts in 2012 to help inform customers of their competitive supply options. These efforts include a three-pronged strategy, including a post card to be mailed by February 29, 2012, a tri-fold flyer to be mailed in May 2012, and a final mailing in the fall of 2012 that will be a letter from the EDC to encourage customers to shop.<sup>2</sup> Duquesne Light Company ("DLC") commented that the tri-fold flyer should be sent in late 2012 or early 2013 instead of May 2012 inasmuch as it overlaps with other DLC mailings and would confuse customers.<sup>3</sup> Similarly, FirstEnergy suggested that the third communication, the letter from the EDC, is overlapping and redundant to currently planned educational efforts required under the existing settlement in the FirstEnergy merger as well as those proposed its proposed default service plans ("DSP").<sup>4</sup>

The Commission should reject the DLC and FirstEnergy suggestions. The additional messages required as part of any other previous proceedings were bargained for as part of those cases and the bargains struck in those cases should not be upset because of this proceeding. Further, the additional educational efforts will not "overwhelm" customers; mailed letters are the least obtrusive means to contact customers and educate them about the benefits of customer choice. Finally, the FirstEnergy

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<sup>2</sup> T.O. at 6.

<sup>3</sup> DLC Initial Comments at 3-4.

<sup>4</sup> Initial Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company ("FirstEnergy") at 4-5.

migration statistics are among the lowest in the state, thereby demonstrating the need for the additional education of FirstEnergy customers.

### III. REFERRAL PROGRAMS

- A. The “New/Mover” Referral Program and the Standard Offer Referral Program should be applied to all customer contacts except for emergency situations.

In its T.O., the Commission recommended that the New/Mover Program as well as the Standard Offer Referral Program (“SORP”) be presented to customers during all calls to an electric distribution company’s (“EDC”) call center except those calls that are for emergency purposes or for termination.<sup>5</sup> Several commenters suggested that the New/Mover Program and the SORP should only be presented to customers during calls to establish new service, to move service, or perhaps when the customer asks about electricity Choice.<sup>6</sup> The Commission should reject these commenters’ attempts to limit what customers receive information regarding electric Choice.<sup>7</sup>

Accepting these commenters’ suggestions would needlessly keep important and relevant information from customers who call an EDC’s call center for non-emergency needs. For example, the comments of OCA and the Joint Commenters would deny automatic referral program information from customers who are calling about high bills even though the referral programs could potentially provide the very relief the customer

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<sup>5</sup> T.O. at 17, 20.

<sup>6</sup> Office of Consumer Advocate (“OCA”) Initial Comments at 7, 11; Initial Comments of AARP, Pennsylvania Utility Law Project (“PULP”) and Community Legal Services, Inc. (“CAP”) (“Joint Commenters”) at 8-9; Initial Comments of PECO Energy Company (“PECO”) at 7-8; FirstEnergy Initial Comments at 11-12; and Initial Comments of Duquesne Light Company (“DLC”) at 11-12, 17.

<sup>7</sup> It is worth noting that this information-limiting view is not universally held among the EDCs. *See*, PPL Initial Comments at 7-10.

is seeking by calling the EDC call center!<sup>8</sup> Direct Energy understands the EDC's concerns about the impact of the referral programs on call center performance metrics. The Commission should send a clear signal to the EDCs that full consideration of the impact of the referral programs will be afforded to the EDCs when reviewing their call center performance metrics.

Additionally, both OCA and the Joint Commenters as well as some of the EDCs suggest removal of customer assistance program ("CAP") customers from the referral programs, specifically the New/Mover Program.<sup>9</sup> Direct Energy recognizes that shopping options for CAP customers are not universally similar throughout the EDCs' territories. Direct Energy suggests that the issues of the treatment of CAP customers occur in the subgroup formed by the Commission to address these issues. In the long term, the benefits of Choice should be made available to as many customers as possible. This means making benefits for CAP customers portable. However, Direct Energy agrees that CAP customers should be excluded from the referral programs for now, until the subgroup process works out these issues.

B. The Commission should abandon the "hot transfer" preference in favor of a greater focus on the SORP.

In its T.O. the Commission stated that it "firmly believe[s]" that a "hot transfer" element should be included in the New/Mover Program for customers who are prepared to switch to an EGS at the time they call an EDC to initiate service or move service addresses.<sup>10</sup> The commenters who addressed this topic recommended a range of items,

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<sup>8</sup> See OCA Initial Comments at 7, 11; Joint Commenters Initial Comments at 10.

<sup>9</sup> OCA Initial Comments at 7; Joint Commenters Initial Comments at 9.

<sup>10</sup> T.O. at 18-19.

including modifications to make the transfer a “warm transfer” (i.e. the customer service representative (“CSR”) only stays on the phone long enough to make sure the transfer was successful) to a cold transfer (i.e. the CSR only transfers the call and has no obligation to make sure the transfer was successful) to elimination of this element.<sup>11</sup> The varied answers demonstrate there are important issues to resolve as it relates to the “hot transfer” and that its limited usefulness is not worth the trouble or hassle for the small gains that might be achieved.<sup>12</sup> The Commission should instead direct the interested parties to focus their limited resources on the SORP and its greater value towards incenting more customers to choose their EGS.

- C. Customers who are currently shopping should not be permitted to participate in the SORP or opt-in auctions.

The T.O. recommends that only residential customers who are on default service at the time of contacting the EDC should be eligible for the SORP.<sup>13</sup> The Commission reminded stakeholders of its policy that: “The public interest would be served by consideration of customer referral programs in which retail customers are *referred to EGSs.*”<sup>14</sup> However, OCA suggested that customers currently being served by an EGS should also be permitted to participate in the referral programs.<sup>15</sup>

The Commission should reject OCA’s suggestion. OCA’s recommendation defeats the purpose of the T.O. as well as the Commission’s desire to push forward with

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<sup>11</sup> See OCA Initial Comments at 9, PPL Initial Comments at 11 (warm transfer); DLC Initial Comments at 12-13 (cold transfer); Direct Energy Initial Comments at 2-3.

<sup>12</sup> Comments of Direct Energy in Response to the December 16, 2012 T.O. at 2-4..

<sup>13</sup> T.O. at 21.

<sup>14</sup> T.O. at 10. (emphasis added).

<sup>15</sup> OCA Initial Comments at 11-12.

jump starting the retail electricity marketplace. Customers already shopping with an EGS do not need to be “referred to EGSs” to entice them to shop – they already enjoy the benefits of shopping and are not the targets of the referral programs.

Finally, PPL suggests that shopping customers should be permitted to participate in the opt-in auctions.<sup>16</sup> PPL’s suggestion should be rejected for the same reasons that shopping customers should not be permitted to participate in the SORP.

D. Customers should remain with their EGS at the end of a SORP offer.

OCA and Joint Commenters oppose the Commission’s determination that customers who participate in the SORP should remain with their EGS at the end of the SORP offer term.<sup>17</sup> OCA and Joint Commenters offer no persuasive reasons for the Commission to revisit their determination in the T.O.<sup>18</sup> OCA and Joint Commenters both fret about the possible rate impacts on customers at the end of the SORP, but these concerns are easily ameliorated. First, customers are informed up front at the time of enrollment about how their rates will change at the end of the SORP period. Additionally, the customer possesses several options that he/she may exercise without penalty at the end of the SORP, including switching to another rate offered by the serving EGS, switching to a rate offered by another EGS, and going back to the EDC’s default service. Finally, concerns about rate volatility are a red herring – most EDC rates are variable rates in that they change every three months (because of reconciliation and price updates) and has the same inherent price swing risk as an EGS variable rate.

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<sup>16</sup> PPL Initial Comments at 15.

<sup>17</sup> OCA Initial Comments at 12-13; Joint Commenters Initial Comments at 12.

<sup>18</sup> T.O. at 21.

- E. Referral program costs and opt-in auction costs should be recovered from all ratepayers through EDC charges.

OCA, Joint Commenters, and two of the EDCs commented that EGSs need to shoulder the cost of the referral programs.<sup>19</sup> The Joint Commenters also opine that EGS should pay for opt-in auction costs as well.<sup>20</sup> These commenters completely ignore the benefits that will be provided by EGSs through these programs as well as the referral programs' furtherance of Pennsylvania's state policy encouraging competition and innovation in the competitive marketplace.

Through the SORP, customers statewide would receive guaranteed discounts off of the price to compare ("PTC"). Customers taking advantage of shopping opportunities through the referral programs are likely to save far more than the nominal costs paid by EDC ratepayers. Additionally, in the retail auction context, customers signing up for a fixed price would receive a "percent off price" or a bonus check, probably in the \$150-200 range (depending on each EDC auction structure). Finally, the successful implementation of these programs will send the market signals necessary to give EGSs the confidence to permanently invest their resources and to provide even more innovative offerings for retail electricity products (such as Free Saturdays) or other energy-related products that will benefit Pennsylvania customers. The Commission should continue down the current path as it relates to cost recovery and apply these same policies to the costs of the referral programs and opt-in auction.

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<sup>19</sup> OCA Initial Comments at 13-14; Joint Commenters Initial Comments at 3-8; PECO Initial Comments at 9; DLC Initial Comments at 10.

<sup>20</sup> Joint Commenters Initial Comments at 3-5.

- F. Customer referral programs should be managed by existing EDC call centers.

The Commission's T.O. specifically requested comments on whether the customer referral programs should be managed by existing EDC call centers, a contracted call center, a statewide call center, or a combination of any or all of the foregoing.<sup>21</sup> PECO and DLC both expressed a preference for a statewide call center.<sup>22</sup>

Direct Energy initially notes that a statewide call center handling competitive retail electric opportunities for customers should be considered as a possible end-state goal of the Commission. A statewide call center would put EGSs on more of a level playing field as it relates to enrollments. It would also provide a platform for the transfer of key customer care functions, such as billing to a central unit when an EDC exits the merchant function. In the interim, though, the referral programs should be managed by existing EDC call centers.<sup>23</sup> The statewide call center solution is too ambitious for 2012 given all of the other activities occurring this year. The Commission should also send a clear signal to the EDCs that full consideration of the impact of the referral programs will be afforded to the EDCs when reviewing their call center and other performance metrics impacted by the increased workload caused by the referral programs.

- G. Customer referral programs should be handled on a uniform, statewide basis.

FirstEnergy recommended that the Commission should allow the EDCs to design their own referral programs to fit within the parameters of their DSPs, inferring that

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<sup>21</sup> T.O. at 18.

<sup>22</sup> PECO Initial Comments at 4-5, 8; DLC Initial Comments at 9.

<sup>23</sup> RESA Initial Comments at 5.

statewide uniform referral programs should not be pursued.<sup>24</sup> FirstEnergy expresses concern that the referral programs will take away from the EDCs' primary service roles.

The Commission should reject FirstEnergy's attempt to derail the referral programs. Uniform statewide programs will keep costs down for all parties involved and provide similar opportunities for EDC customers to take advantage of the pricing opportunities in the competitive marketplace. Additionally, the timely implementation of these important efforts designed to jump start the market will not be unnecessarily delayed by trudging through the individually-litigated DSPs. In fact, moving the referral programs through the individual DSPs would certainly doom the referral programs to a start date concurrent with or later than (rather than before) the start of the DSPs in June 2013.

H. The New/Mover Program should be open to residential as well as small commercial customers.

FirstEnergy and DLC suggested in their initial comments that the New/Mover Program should only include residential customers. FirstEnergy asserts that small commercial customers have widely varying usage patterns and commercial customers are shopping more than residential customers and therefore the program is not needed.<sup>25</sup> The EDCs' misguided suggestion should be denied by the Commission. As demonstrated in Direct Energy's initial comments, small commercial customers are not shopping more than residential customers.<sup>26</sup> Further, the recommendation to only include small

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<sup>24</sup> FirstEnergy Initial Comments at 7-8.

<sup>25</sup> FirstEnergy Initial Comments at 12-13; DLC Initial Comments at 19.

<sup>26</sup> Direct Energy Initial Comments at 7.

commercial customers at 25 kilowatts and below would allow for a consistent implementation among the various EDCs.

- I. A 3-month SORP offering is the appropriate term length to incent customers to try shopping through the SORP, but would support a four month 7% guaranteed savings for participating residential and small business customers.

FirstEnergy and DLC criticize the 3-month introductory SORP as “bait and switch” and or “teaser rates.” The Commission already rejected these same arguments and should do so again.<sup>27</sup> Customers will be presented with all of the terms and conditions up front, including both before enrollment and again at the time of the first contact between the customer and the EGS.<sup>28</sup> And, as noted above, the customer possesses several options that he/she may exercise without penalty at the end of the SORP, including switching to another rate offered by the EGS, switching to a rate offered by another EGS, and going back to the EDC’s default service price. Introductory offers are nothing new for customers as they are prevalent in several other industries as well, including the need to make additional decisions about their service at the end of an introductory period. Additionally, the consumer education conducted to inform customers will help ensure customers are fully aware of the details of referral program. Finally, as demonstrated by the New York Public Service Commission’s implementation of a similar program, complaints about their referral programs are *de minimis*.<sup>29</sup> Customers will be fully informed and will not feel misled or otherwise like they did not

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<sup>27</sup> FirstEnergy Initial Comments at 14-17; DLC Initial Comments at 15-16.

<sup>28</sup> T.O. at 20-21.

<sup>29</sup> Comments of Ron Cerniglia to RMI Technical Conference of September 28, 2011.

get the deal they bargained. The Commission should again reject the FirstEnergy and DLC arguments.

Nevertheless, Direct Energy would support a 4 month 7% guaranteed savings for the new mover and referral programs. If the PUC supports this position, it would result in the enhanced benefit of an additional month of guaranteed savings to residential and small business customers.

#### **IV. OPT-IN AUCTION**

- A. Pilot auctions can be successful and provide tangible learning opportunities for all stakeholders even in a compressed time frame. Failure to have pilot auctions deprives the Commission and all stakeholders of important information that would ultimately improve the auctions held by the EDCs as part of their DSPs.

In its T.O., the Commission determined that it would not recommend that EDCs hold pilot auctions. Specifically, the Commission questioned whether there was enough time to complete a pilot auction and learn from it as well as questioning the usefulness and appropriateness of the pilots.<sup>30</sup> Direct Energy respectfully requests that the Commission reconsider its conclusion.

Direct Energy provided the Commission with a proposed timeline in which a short-term pilot auction could be held and consequently studied in time to inform the Commission's decisions as it related to the opt-in auctions to be held by the respective EDCs pursuant to their DSP.<sup>31</sup> Direct Energy's Initial Comments in this proceeding also explain all of the potential benefits of a pilot opt-in auction.<sup>32</sup> None of the EDCs and

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<sup>30</sup> T.O. at 28.

<sup>31</sup> Comments of Direct Energy regarding November 10, 2011 En Banc Hearing – [http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc\\_Comments-DE.pdf](http://www.puc.state.pa.us/electric/pdf/RetailMI/EnBanc_Comments-DE.pdf) (see page 20 of the link).

<sup>32</sup> Initial Comments of Direct Energy at 10-13.

others who opposed the idea of a pilot program have refuted or otherwise disproved that the pilot auctions could occur, be successful, and provide important information for the Commission as it considers the opt-in auctions of the EDCs in their DSPs. The Commission should revisit this issue and reap the benefits of an opt-in auction pilot as described by Direct Energy.

A viable option is to limit the opt-in pilot auctions to the FirstEnergy Companies. By limiting the pilot auctions to the FirstEnergy Companies, the Commission will be a better position to incorporate any “lessons learned” into the planning of the full-scale opt-in auctions. Moreover, the limited size of the pilot auctions would not appear to adversely impact the current default supply contracts for the First Energy Companies. Shown below is the effect on shopping levels that would occur in the FirstEnergy service territory if a pilot conducted in the 4<sup>th</sup> quarter of 2012:

	Existing Switching <sup>33</sup>			Pilot Auction	
	Total Customers (Estimate)	# of Switching Customers	% of Switching Customers	Pilot Size/ Switching Increase	Total % of Switching Customers
Met-Ed	483,548	44,970	9.3%	50,000	19.64%
Penelec	501,993	73,291	14.6%	50,000	24.56%
Penn Power	140,219	32,671	23.3%	25,000	41.13%
West Penn Power	613,690	96,963	15.8%	50,000	23.95%
	<b>Average</b>		<b>15.8%</b>		<b>27.3%</b>

- B. Customers should sign-up for the opt-in auction before the actual auction occurs.

The T.O. denied the requests of EGSs and suggested that an auction should be held before customers enroll in the opt-in auction, but invites comments to overcome the

<sup>33</sup> PAPowerSwitch Update for Wednesday, January 11, 2012.

concerns raised by the Commission.<sup>34</sup> Direct Energy appreciates the Commission's willingness to fully consider this issue and the Commission's struggle with what the correct answer should be. Direct Energy hopes the points below could ease some of the Commission's concerns and asks the Commission to reverse its suggestion in the T.O.

There are several reasons why the need for potential EGSs to have an idea of the auction pool should outweigh the need for potential customers to have exact pricing information before enrolling in the opt-in auction.<sup>35</sup> Most importantly, customers overwhelmingly note that price is their primary concern and motivation for shopping and the Commission has correctly taken notice of that fact.<sup>36</sup> The best way to ensure customers get the lowest prices in the auctions is to give potential EGS bidders confidence and certainty about what risk they are incurring to participate in the auction. The more uncertainty injected into the auction process, the higher bid prices will be.

Further, Direct Energy believes that conducting the auction first simply creates a significant risk that the auction would be a failure. While Direct Energy acknowledges the Commission's concern that not as many customers will sign up if the product is unknown, Direct Energy believes that the yet unproven possibility of a reduced number of shopping customers in an auction is better than an auction failure. And, as shown by the focus group surveys presented by the Tarrance Group at the November 2011 En Banc

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<sup>34</sup> T.O. at 32-33.

<sup>35</sup> Direct Energy Initial Comments at 13-14.

<sup>36</sup> Comments of Direct Energy regarding November 10, 2011 En Banc Hearing – <http://www.puc.state.pa.us/electric/PDF/RetailMI/EnBanc111011-P-CE-CK.pdf> (see page 3 of link indicating 88% of people responded that price is primary driver of migration).

hearing, there is already plenty of interest in the opt-in auctions.<sup>37</sup> Simply put, the prospect of lower prices for those customers who do opt-in (regardless of the product) and the significantly greater chances for a successful auction outweigh the need to simply have as many people as possible participating. The Commission's other efforts combined with the opt-in auction will all provide significant boosts to retail shopping even if the auctions do not have the maximum customers participating.

Direct Energy suggested in its initial comments an alternative to meet the Commission halfway that could ameliorate both the Commission and EGSs.<sup>38</sup> The opt-in auction could require customer enrollment before the auction but in return the customer would know before opting-in that: (1) they would get a set bonus; and (2) they would have guaranteed savings below the existing or then known PTC. Direct Energy believes this middle ground would create substantial excitement amongst eligible customers as well as provide the framework for an auction that will be successful.

Direct Energy respectfully urges the Commission to reconsider its suggestion and recommend that customers enroll in the opt-in auction before the actual auction is conducted.

C. The Commission should keep the customer participation cap at 50%.

The Commission adopted a recommendation that 50% of an EDC's default customer service base should be eligible to participate in an EDC's opt-in auction.<sup>39</sup>

OCA's Initial Comments continue to advocate for a customer participation cap of 20% of

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<sup>37</sup> See Presentation of Dave Sackett of the Tarrance Group for Direct Energy – <http://www.puc.state.pa.us/electric/PDF/RetailMI/EnBanc111011-P-CE-TG.pdf>.

<sup>38</sup> Direct Energy Initial Comments at 14, fn 20.

<sup>39</sup> T.O. at 35.

an EDC's default service customer base.<sup>40</sup> Also, DLC pointed out that the 50% customer participation cap is ambiguous and should be clarified by the Commission.<sup>41</sup>

Initially, Direct Energy points out that there would be no need for customer participation caps if the Commission were to hold the auctions after customers opted-in to the auction. There is plenty of bandwidth for EGSs to serve as many customers who want to participate in the opt-in auctions when the EGSs possess the certainty of knowing how many customers want to participate before bidding in the auction. However, if the Commission is going to maintain the current recommendation to conduct the auction before customers enroll, Direct Energy believes the 50% customer participation cap is reasonable. Adopting OCA's position may not provide a large enough cap to make participating in the opt-in auctions optimally valuable for EGSs and therefore lead to higher than necessary prices. Direct Energy would encourage the Commission to respond directly to DLC's comments and clarify that the 50% customer participation cap is of 50% of the default service customer base without any reductions for the number of customers who are currently shopping.

Moreover, Direct Energy strongly argued that the Commission revise its recommendations and direct that small commercial and industrial customers (with peak loads of 25kw and below) be included in the opt-in auction.<sup>42</sup> This is an important refinement of the PUC's tentative view because including small business customers will make the auctions more attractive to potential EGS participants and help to improve the

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<sup>40</sup> OCA Initial Comments at 19-20.

<sup>41</sup> DLC Initial Comments at 25-26.

<sup>42</sup> Direct Energy Initial Comments at 14-15.

shopping for a customer class that appears to need the benefit of this market enhancement.<sup>43</sup> If the Commission accepts this recommendation, no limitation on small commercial and industrial default service customer auction participation should be imposed.

- D. A fixed rate product with a bonus payment should be preferred over a guaranteed savings off of the PTC.

The Commission's T.O. took no explicit position on the auction product but rather stated that a statewide standard was not appropriate given the differing states of shopping success in the various EDC territories.<sup>44</sup> However, the Commission requested comments on both models. PPL recommended that the Commission should let the EDC take the approach it chooses.<sup>45</sup> Additionally, OCA suggested a third option: a fixed rate that guarantees savings and that will match the PTC if the PTC goes lower than the fixed auction price.<sup>46</sup>

For the detailed reasons spelled out in its Initial Comments, as well as the RESA Initial Comments, Direct Energy prefers the fixed rate with a bonus structure.<sup>47</sup> However, Direct Energy takes this opportunity to again highlight for the Commission that the fixed rate with bonus is the best option to provide significant and immediate financial benefits for customers and the state that are absent with a guaranteed percentage off of the PTC. However, if the Commission should wish to continue to support both

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<sup>43</sup> See Direct Energy Initial Comments at 8-10.

<sup>44</sup> T.O. at 37-38.

<sup>45</sup> PPL Initial Comments at 19.

<sup>46</sup> OCA Initial Comments at 21.

<sup>47</sup> Direct Energy Initial Comments at 14-15; RESA Initial Comments at 14-15.

approaches, Direct Energy could accept a “guaranteed savings” approach but only if the PTC is known for the entire 12 month term of the product offering for which the EGS is bidding.

And, it should be noted that when the auction is conducted (preferably after the enrollment), Direct Energy favors the sealed bid method which is easier to administer and less costly than the declining clock method.

- E. Customers participating in the opt-in auction should remain with their EGS at the conclusion of the opt-in auction term.

The Joint Commenters opposed the Commission’s determination that customers who participate in the opt-in auction should remain with their EGS at the end of the opt-in auction offer term.<sup>48</sup> OCA commented that opt-in auction customers should be renewed on a fixed rate not a variable rate. DLC also opposes automatic retention by an EGS at the end of the opt-in auction period unless the pricing arrangement of the opt-in auction would be continued or other customer protections are included.<sup>49</sup>

Direct Energy initially notes that Joint Commenters’ and DLC’s position regarding reversion to the EDC at the end of the opt-in auction should be denied for the same reasons explained above and in its Initial Comments for why a customer at the end of a SORP should remain with their EGS. The PUC’s recommended treatment is exactly consistent with the present rules for EGS contract renewal when a customer takes no action. It is worth noting that at least one EDC, PPL, agrees that (with the proper notices) the customer should remain with their EGC at the end of the opt-in auction period.<sup>50</sup> In

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<sup>48</sup> Joint Commenters Initial Comments at 14-15.

<sup>49</sup> DLC Initial Comments at 29-30.

<sup>50</sup> PPL Initial Comments at 19-20.

regards to OCA's argument about the offering of a fixed rate at the end of the opt-in auction term, Direct Energy could agree to a requirement that an EGS must at least offer a new fixed rate at the end of the opt-in auction term; however, the fixed rate should not be required as a default rate if the customer does nothing in response to this fixed offer rate.

F. The Commission should keep the 6 to 12-month opt-in auction terms.

FirstEnergy suggested the Commission erred by adopting an opt-in auction term between 6-12 months and by rejecting its proposed 24 month term with a guaranteed PTC savings.<sup>51</sup> The Initial Comments of RESA demonstrate why the Commission's initial determination is appropriate and should be maintained.<sup>52</sup> The Commission's concern about market power and limiting the number of suppliers (especially smaller suppliers) is especially relevant as it relates to the auction term. Customers are also more likely to be familiar with 12-month terms versus 24-month terms. Finally, the unpredictable pace of the economic recovery, especially starts and stops in the recovery, make the price of electricity more volatile and therefore the shorter term opt-in auction periods help protect against the unpredictability of the market. The shorter auction term time frames are appropriate and should be maintained.

## V. INCREASED EDC AND EGC COORDINATION

The T.O. requested comments on whether existing Letters of Authorization ("LOAs") provide permission for an EDC to release the customer's actual bill to an EGS

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<sup>51</sup> FirstEnergy Initial Comments at 20-22.

<sup>52</sup> RESA Initial Comments at 12; See T.O. at 29.

for purposes of settling bill disputes.<sup>53</sup> OCA, FirstEnergy, and DLC indicated in their comments that they do not believe the existing LOA provides sufficient authorization to allow an EGS to see a customer's actual bill.<sup>54</sup> However, RESA's Initial Comments explain why and how the existing LOA's should be deemed to provide this authorization.<sup>55</sup>

Direct Energy respectfully suggests the Commission find that the existing LOAs provide sufficient authorization for an EDC to provide an actual customer bill to an EGS for purposes of bill problem resolution. As the Commission noted in the T.O., these disputes are not frequent.<sup>56</sup> The good associated with resolving customer complaints outweighs the worries expressed by the other interested parties, especially when the infrequency of the requests is acknowledged. As a compromise, Direct Energy suggests that the Commission deem all existing LOAs to provide appropriate permission for an EGS to receive a customer's actual bill for bill problem resolution purposes (i.e. grandfather them). It should also direct the EDCs to modify their current template LOAs to explicitly grant this permission to an EGS.

## **VI. CONCLUSION**

Direct Energy again reiterates its appreciation of all of the Commission's hard work in this docket and the other related cases and subgroups. Direct Energy respectfully

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<sup>53</sup> T.O. at 47-48.

<sup>54</sup> OCA Initial Comments at 26-27; FirstEnergy Initial Comments at 31-32; DLC Initial Comments at 31-32.

<sup>55</sup> RESA Initial Comments at 17-18.

<sup>56</sup> T.O. at 48.

requests the Commission adopt its suggestions, as contained in its Initial Comments and Reply Comments.

Respectfully submitted

A handwritten signature in black ink that reads "Daniel Clearfield". The signature is written in a cursive style and is positioned above a horizontal line.

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