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April 3, 2014

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

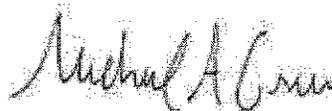
**Re: Review of Rules, Policies and Consumer Education Measures Regarding Variable
Rate Retail Electric Products
Docket No. M-2014-2406134**

Dear Secretary Chiavetta:

Enclosed for filing are the Comments of IDT Energy, Inc. in the above-captioned matter.
If you have any questions, please do not hesitate to contact me. Thank you.

Best Regards,

STEVENS & LEE



Michael A. Gruin

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A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Review of Rules, Policies and Consumer)
Education Measures Regarding Variable)
Rate Retail Electric Products)**

Docket No. M-2014-2406134

Comments of IDT Energy, Inc.

Introduction

IDT Energy, Inc. (“IDT”) hereby files these comments in response to the Commission’s March 4, 2014 Order which initiated the above-captioned Investigation. IDT has been in the business of retail electricity supply since 2004, and has been licensed as an Electric Generation Supplier (“EGS”) in the Commonwealth of Pennsylvania since 2009. IDT is also currently licensed as a supplier in New York, New Jersey, Maryland, Illinois and the District of Columbia.

The Commission’s March 4, 2014 Order correctly summarized the impact that the prolonged extreme cold weather in January had on the wholesale electricity market, as well as the corresponding impact on retail suppliers and customers. While all retail suppliers were impacted in some way by the unforeseen events of this past winter, it is apparent that suppliers offering variable-priced contracts and their customers were particularly affected. As the Commission noted, many EGSs “voluntarily absorbed losses during this period in order to maintain long term contractual relationships with their customers.” IDT had a substantial number of customers who were on variable price agreements in January and February 2014, and IDT was one of those EGSs that absorbed significant losses in order to mitigate the impact of the wholesale price spike on its customers. In fact, IDT was one of the first suppliers to publicly announce that it was offering refunds and rebates to customers affected by the wholesale price

spikes.¹ IDT has provided significant goodwill credit adjustments to Pennsylvania customers to mitigate the effects of the wholesale price spike during January and February 2014, and by the end of April, 2014, it is expected that these refunds will total more than \$2,000,000.

IDT has offered a no-contact, no-termination fee, month-to-month variable priced product in Pennsylvania since obtaining its EGS license in 2009. Because of that experience, and because of the severe impact that the recent wholesale price spikes had on its customers and its business, IDT is highly attuned to the issues surrounding variable pricing. It is widely acknowledged that variable-price products have been attractive and beneficial to many customers over the years. In a market where electricity prices are declining, variable plans are clearly a very appropriate choice for consumers. In a market where costs are rising, a fixed plan might be a better choice. The truth is that all customer choices can turn out to be incorrect in hindsight, whether it is the choice of a variable plan, the choice of a fixed plan, or *the choice not to shop at all*. However, our analysis shows that choosing a variable rate for electricity supply remains a very good choice for many consumers over the long run.

The recent winter price spikes were an anomaly, and cannot be the sole consideration of consumers who are making decisions about future energy purchases, or of policymakers crafting the rules of the competitive market. These events and the lessons learned by suppliers and consumers from these events, while painful in the short run, have the chance to positively shape Pennsylvania's burgeoning electricity markets in the long run. With continued education efforts, consumers will have a better understanding of the electricity shopping process, the various types of products that are available to them, and the important decisions that they must make when choosing a product. Suppliers will improve their customer communication processes

¹ See IDT Energy Press Release dated March 6, 2014

as well and will develop products to meet the demands of consumers, and the deregulated market will do exactly what is supposed to - create a robust competitive marketplace for energy products that will provide long-term benefits to consumers.

IDT is encouraged that the Commission has recognized that variable priced products clearly have a place in the market. IDT urges the Commission to take a cautious approach and a long-term view before implementing regulatory changes regarding variable-priced contracts that could have negative unintended consequences. These issues need to be addressed in a careful and thoughtful manner, and IDT appreciates the opportunity to submit comments in this proceeding in order to share its experiences and suggestions as the Commission moves forward on this topic.

Comments

For variable-priced contracts without explicit formulaic pricing parameters:

- *Should EGSs be required to provide advance notice of price changes to customers?*

While IDT understands the Commission's interest in this question in the aftermath of the polar vortex-related wholesale price spikes, IDT respectfully submits that it is highly impractical for EGSs to provide advance notice of variable price changes to customers in most circumstances. The recent events of January and February demonstrate this very point.

Wholesale electricity prices change hourly at times during peak periods. These hourly price changes affect the real time and day-ahead prices for all suppliers, including utility default-suppliers. If suppliers were required to provide notice of variable price changes to customers well in advance of delivery periods, it would be nearly impossible for suppliers to offer a true variable month-to-month product at all. At best, suppliers offering pure variable rate products are able to provide notice to customers in the middle of a billing cycle, to inform customers of

the rate that they are being charged currently and the rate which will be used to calculate their next bill. If advance notice of all price changes was required, suppliers would be required to forecast future wholesale prices and build in risk premiums in order to provide customers with advance notice of those price changes. As a result, it would be impossible for suppliers to offer true variable-priced products that track real-time markets.

By their very nature, variable rates are constantly changing, which makes advance notice of price changes highly impractical. Rather than requiring advance notice of every variable price change, the focus should be on 1) educating customers about what variable pricing actually entails, so that customers who choose variable priced products are aware of the potential upsides and downsides of variable pricing; and 2) requiring clear and understandable disclosures of variable pricing terms and conditions. No amount of advance notice of price changes will ensure the satisfaction of a customer that chose a variable priced product without a clear understanding of the true nature of the product. As such, any additional variable pricing rules should focus on requiring clear, upfront explanations of the nature of the variable price product, so that customers who choose the variable priced product are making an informed choice.

- *Should the advance notice requirement be waived for minor contract price changes, within a certain bounds? If so, what bounds are appropriate?*

As explained above, any advance notice requirements for variable pricing would be highly impractical and would likely result in month-to-month variable rate products disappearing from the market. If the Commission does determine that advance notice of variable price changes is to be required, the extent of such notice requirements should vary based on the nature of the customer's contractual agreement with the supplier. For instance, notice requirements should not necessarily be the same for customers that have knowingly chosen a pure variable month-to-

month product, and those customers who have chosen a fixed price contract that is converted to a variable rate after the expiration of their fixed price contract term. In other words, the appropriate notice requirements, and waivers of those requirements, should depend on the nature of the customer's contract, and those notice provisions should be specified in customer's initial disclosure statement. A customer who knowingly chooses a month-to-month variable priced product would not reasonably expect an advance notice of the variable price change each and every month. By contrast, a customer on a fixed rate, fixed term contract would certainly expect to be provided advance notice of a possible rate change at the end of a term so that the customer can make a choice to accept or reject that price change.

- *If advance notice is required, how far in advance of the meter read date should notice be provided and how can this notice be provided?*

The answer to this question is inextricably linked to the amount of time that it takes for the utility to effectuate a customer's request to switch suppliers. The Commission has correctly recognized that the current 11-40 day timeline for switching suppliers is a major cause of customer dissatisfaction and a major barrier to a fully competitive market. Until immediate switching, or at least mid-cycle switching, becomes a reality in Pennsylvania, it is not possible to speculate on the appropriate amount of advance notice of price changes that should be provided to customers, if the Commission decides that advance notice of price changes should be required.

- *Do variable rate contracts without explicit pricing parameters provide consumers with the information needed to make informed decisions? If not, what is the remedy?*

In IDT's experience, variable priced contracts without explicit pricing parameters do provide customers with the information needed to make informed decisions, if the customer's disclosure statement clearly explains that their price can vary from month to month and states whether or

not the variable price is capped or limited in some way. IDT's customer agreements and disclosure statements explicitly inform customers about the factors that affect their variable rate, and they clearly inform customers that 1) their price may be higher or lower than the EDC's price to compare, and 2) their variable price does not have a ceiling.

In times of price volatility like we have recently experienced, some customers may in retrospect fail to acknowledge the risk that they agreed to undertake by choosing a variable priced product with no ceiling, even if they have been satisfactorily served by that same variable priced product for several years. The appropriate remedy for this phenomenon is twofold. First, it is incumbent upon regulators and suppliers to provide more effective consumer education that focuses on what various pricing offers mean and how they affect a consumer, rather than focusing solely on comparing EDC default supply rates to EGS rates. The Commission's recent educational videos about "Fixed vs. Variable Pricing" are an excellent example of an effective and useful consumer education campaign that will result in better informed and more satisfied customers. And secondly, there needs to be a concerted effort to remove the EDC from the supply function, or at least move the EDC default service closer to an actual market price. Artificially priced default supply distorts customer perceptions of the true costs of electricity supply and creates an un-level playing field in which EGS's cannot effectively compete. Experience in other states, such as New York, New Jersey and Maryland, demonstrates that competitive robust markets eventually stall out once a certain level of migration is reached, primarily because distribution companies remained in the supply function. By contrast, the Texas market remained robustly competitive and stable because the distribution companies were completely removed from the supply function. The Texas market sees most robust competition

with suppliers truly competing for the customer's business, creating innovative products and services including smart meters, demand metering and customer centric prices.

For variable-priced contracts with explicit formulaic pricing parameters

- *Should EGSs be required to provide a historical pricing history for this formulaic rate structure?*
- *If so, how many months should be provided, and where should this information be provided so as to be available to all participating customers?*

IDT respectfully submits that providing customers with historical pricing could actually misinform customers about prospective prices. There is no correlation between past prices and future prices. Rates vary based on current market conditions, and providing historical pricing information may paint an artificially negative or positive perception to the consumer, depending on which snapshot in time is presented. For instance, in November of 2013, no amount of historical pricing information could have prepared customers for the price spikes of January 2014. Likewise, the higher than normal prices of January 2014 do not accurately forecast what prices will be in January of 2015.

- *Should EGSs describe specifically how future formulaic prices are determined?*

Requiring EGSs to describe how they will determine their prices would make it nearly impossible for a competitive market to exist. Suppliers are competing with each other for customers based on price and other factors. Product pricing is highly proprietary information in any industry, and the electricity supply industry is no different. Requiring publication of how prices will be determined will place an extraordinary burden on suppliers. Rather than requiring suppliers to publish proprietary pricing information, the focus should be on leveling the playing

field between competitive supplier offerings and utility default supply by making default supply truly market based, or by having EDCs exit the supply business altogether.

Conclusion

IDT appreciates the opportunity to submit comments in this proceeding. IDT encourages the Commission to take input from all interested stakeholders and conduct a careful and thorough review of the complicated issues that are raised in this Investigation before enacting any rule changes regarding variable priced products.

Respectfully Submitted,

Wayne Stoughton
Vice President Customer Service and
Regulatory Affairs
IDT Energy, Inc