

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 19, 2018

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

Re: Joint Petition of Metropolitan Edison
Company, Pennsylvania Electric Company,
Pennsylvania Power Company, and West
Penn Power Company for Approval of Their
Default Service Programs
Docket Nos. P-2017-2637855
P-2017-2637857
P-2017-2637858
P-2017-2637866

Dear Secretary Chiavetta:

Attached for electronic filing are the Comments of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink that reads "Darryl Lawrence /sym".

Darryl A. Lawrence
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Enclosures

cc: Dan Mumford, Office of Competitive Market Oversight
*261057

CERTIFICATE OF SERVICE

Re: Joint Petition of Metropolitan Edison :
Company, Pennsylvania Electric Company : Docket Nos: P-2017-2637855
Pennsylvania Power Company, and West : P-2017-2637857
Penn Power Company for Approval of : P-2017-2637858
Their Default Service Programs : P-2017-2637866

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 19th day of October 2018.

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Dated: October 19, 2018
*261060

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition of Metropolitan Edison Company,	:	
Pennsylvania Electric Company,	:	Docket Nos. P-2017-2637855
Pennsylvania Power Company, and	:	P-2017-2637857
West Penn Power Company for Approval of	:	P-2017-2637858
Their Default Service Programs	:	P-2017-2637866

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: October 19, 2018

I. INTRODUCTION

On August 23, 2018, Commissioner David W. Sweet and Vice Chairman Andrew G. Place issued a Joint Motion relevant to the default service proceedings of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (Met-Ed, Penelec, Penn Power, and West Penn) (collectively, FirstEnergy or the Companies). The Joint Motion addressed the manner in which FirstEnergy's Customer Assistance Program (CAP) customers participate in the competitive retail market as well as the scripting of FirstEnergy's Customer Referral Program (CRP). In the Joint Motion, Commissioner Sweet and Vice Chairman Place directed that, consistent in part with the Administrative Law Judge's (ALJ) recommendations set forth in the May 31, 2018 Recommended Decision, both the CAP shopping program and CRP be referred to the Commission's Office of Competitive Market Oversight (OCMO) for review and analysis, and that OCMO provide recommendations regarding these programs to the Commission by January 31, 2019.¹

In particular, Commissioner Sweet and Vice Chairman Place noted that "there is clear evidence demonstrating that a significant number of FirstEnergy's CAP customers paid significantly more than what they would have if they were default service customers" and that "it is necessary to impose some restrictions on FirstEnergy CAP customer shopping in order to protect both CAP customers and the non-CAP residential rate base from increased and unnecessary costs." Joint Motion at 2. Accordingly, Commissioner Sweet and Vice Chairman Place directed that "the ALJ's recommendation should be adopted in so far as EGSs may not charge CAP customers a rate greater than the PTC, nor charge early termination or cancellation fees" and that the program

¹ Commissioner Sweet and Vice Chairman Place noted "concerns . . . with deferring OCMO's work product to 2023, as envisioned by the ALJ, and instead request[ed] that OCMO submit, but the end of January 2019, its recommendations to this Commission or its consideration." Joint Motion at 3.

should be referred “to OCMO to work with stakeholders on the details of the program in order to ensure a successful implementation.” Joint Motion at 2 (footnote omitted). With regard to the scripting of the CRP, Commissioner Sweet and Vice Chairman Place noted that the “ALJ acknowledged the benefit of a stakeholder meeting to discuss the scripting issue” and that the issue should be referred to OCMO as “OCMO has the resources and expertise to address this scripting issue” and “consider the consumer protection concerns of the OCA.” Joint Petition at 3.

On September 4, 2018, the Commission entered an Order consistent with the Joint Motion. The Commission approved a new CAP shopping program in which CAP customers may enter into a contract with an EGS only “for a rate that is at or below the PTC and does not contain an early termination or cancellation fee.”² Order at 61. In this regard, the Commission ordered as follows:

That the Office of Competitive Market Oversight is hereby, directed to convene and coordinate a group of interested stakeholders for the purpose of collaboratively addressing the mechanics and details of the new Customer Assistance Program approved by this Opinion and Order and in which CAP customers may only enter into a contract with and Electric Generation Supplier for a rate that is at or below each FirstEnergy Company’s Price to Compare and does not contain any early termination or cancellation fees, and provide a recommendation on the mechanics and details of the program to the Commission, on or before January 31, 2019, to ensure successful implementation of the program.

² In footnote 19 of the Order, the Commission stated, “The issue of whether the EGS rates must be below the PTC at the time of contracting, or below that and all future PTCs, is within the scope of this referral to OCMO.” Order at 58. On September 17, 2018, the OCA filed a Petition for Reconsideration requesting reconsideration of the scope of the referral of the CAP shopping program to OCMO as set forth in footnote 19. The OCA submits that record in this case is clear, and has been duly recognized by the Commission Order, that charges to CAP participants above the PTC at any time result in harm to both CAP customers and non-CAP customers. Accordingly, it should be settled that the EGS rates must be at or below the PTC *at all times*. Further, the OCA notes that, on September 17, 2018 and September 19, 2018, respectively, CAUSE-PA and FirstEnergy filed Petitions for Reconsideration echoing this point. The Commission granted the Petitions of the OCA, CAUSE-PA, and FirstEnergy pending review of and consideration on the merits. As of the date of these Comments, the Petitions remain pending before the Commission.

Order at 61. Additionally, the Commission also approved the continuation of the CRP through 2023 and noted that it “believe[s] it is in the public interest to consider improvements to the CRP script.”³ Order at 32. Accordingly, the Commission ordered as follows:

That the Office of Competitive Market Oversight is, hereby, directed to convene and coordinate a group of interested stakeholders for the purpose of collaboratively addressing the scripting and training materials associated with FirstEnergy’s Customer Referral Program: (a) to ensure that such scripting and training materials will provide sufficient customer education/protections and disclaimers to customers that are not misleading, and (b) to determine the impacts that such scripting and training materials may have on customer enrollment in the program as well as other competitive concerns. A recommendation shall be provided to the Commission on or before January 31, 2019.

Order at 61.

On September 6, 2018, the Commission issued a Secretarial Letter in which it notified stakeholders that an informal collaborative hosted by OCMO will convene on November 5, 2018, and requested that stakeholders submit comments regarding the implementation of the new Commission-ordered CAP shopping program and the scripting and training materials associated with the CRP. Secretarial Letter at 1, 2. The Commission further requested that any comments provide specific topics to be discussed at the collaborative within the scope of the two main issues identified in the Joint Motion and the Order. Secretarial Letter at 2. The Office of Consumer Advocate (OCA) submits these Comments in accordance with the Secretarial Letter.

II. COMMENTS

The OCA respectfully requests that the following topics be discussed throughout the course of the November 5, 2018 stakeholder collaborative as it pertains to the implementation of a new CAP shopping program and the scripting and training materials associated with the CRP:

³ See *supra*, n. 1; see also Order at 33.

A. CAP Shopping Program Implementation

1. Use of CAP Participation Flags to Identify CAP Customers

The OCA supports FirstEnergy's proposal to use CAP participation flags to inform EGSs that a customer is a CAP participant. The OCA also supports the position of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania's (CAUSE-PA) that CAP participation flags should be present only when a household is enrolled in CAP and that CAP participation flags must not be used to label a customer as low-income.

2. Applicability of the PPL CAP-SOP Rules to This CAP Shopping Program

The OCA supports CAUSE-PA's recommendation to follow the "spirit" of the rules set forth by the Commission for the PPL CAP-SOP.

B. CRP Scripting and Training Materials

1. Disclosures by FirstEnergy Agents

The OCA submits that script changes are necessary in the areas below to ensure adequate and reliable service to customers before a discussion of the CRP or transfer to the third-party agent, Allconnect, and to ensure that it is clear to customers that the EDC transaction has ended.

- a. Completion of the EDC Transaction
- b. Elimination of References to a "Confirmation Number"
- c. Extend of Description of the CRP
- d. Disclosure that the CRP is an Optional Program
- e. Full Disclosures If Any Reference To Savings Is Made
- f. Consent to Transfer Customers to Allconnect

2. Presentation and Explanation by Allconnect Agents

The OCA submits that script changes are necessary in the areas below to ensure that customers are not misled regarding the nature of the CRP and any discounts associated with the program or enrolled in the CRP without proper informed consent.

- a. Advertisement of the CRP as a Fixed-Price Program
- b. Clear Disclosure that Any Stated Discount Off of the PTC is Not Guaranteed
- c. Clear Disclosure that the PTC Will Change and That Any Discount or Savings Will Change With the PTC
- d. Disclosure of Any Known, Forthcoming Changes in the PTC and the Dates Upon Which the PTC Will Change
- e. Information as to How Customers Can Monitor the PTC
- f. Disclosure that the CRP is an Optional Program
- g. Disclosure that There are No Early Termination Fees
- h. Enrollment Procedure and Consent

3. Comprehensive Training Materials

The OCA submits that FirstEnergy should implement comprehensive training materials that reflect updated scripting materials and emphasize an educational role for Allconnect agents that is neutral and fact-based.

4. Oversight Program

The OCA submits that FirstEnergy must ensure that both its agents and Allconnect agents are trained and monitored to ensure that agents understand how the CRP works and answer questions correctly to educate customers. FirstEnergy should implement an oversight program that includes monitoring of customer calls for compliance with scripts.

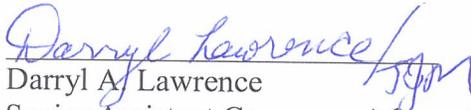
5. Determination of Impacts on Customer Enrollment and Competition

The OCA submits that, in evaluating the impact of script changes on CRP enrollment and competition, a variety of factors should be considered, including, but not limited to, monthly customer enrollment and monthly bill impacts.

III. CONCLUSION

The OCA respectfully requests that, in addressing the implementation of FirstEnergy's new CAP shopping program and the scripting and training materials associated with the CRP at the November 5, 2018 stakeholder collaborative, the Commission give due consideration to the topics identified by the OCA as set forth above.

Respectfully Submitted,


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Dated: October 19, 2018
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