



OFFICE OF CONSUMER ADVOCATE

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January 2, 2008

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Retail Electricity Choice Activity Reports
Docket No. L-00070184

Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of the Comments of the Office of Consumer Advocate, the above-referenced proceeding.

Respectfully Submitted,

A handwritten signature in cursive script that reads "David T. Evrard".

David T. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870

Enclosure

cc: Charles Covage (via e-mail only)
Patricia Krise Burket (via e-mail only)
Cyndi Page (via e-mail only)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Retail Electricity Choice Activity Reports : Docket No. L-00070184

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

I. Introduction

The Public Utility Commission's (Commission) Proposed Rulemaking Order in the above-captioned docket was published in the Pennsylvania Bulletin on November 3, 2007. The Office of Consumer Advocate (OCA) offers the following comments in response to the Commission's Order.

The OCA commends the Commission for taking this next step in formulating regulations for the reporting of retail choice activity in order to carry out its responsibilities under the Electricity Generation Customer Choice and Competition Act (Act), 66 Pa.C.S. § 2801 *et seq.* As the Commission has noted, Section 2804(12) of the Act requires the Commission to conduct milestone reviews of retail electric generation competition. Additionally, Section 2811(a) directs the Commission to monitor the market for the supply and distribution of electricity to retail customers and to prevent anticompetitive or discriminatory conduct and the unlawful exercise of market power.

The OCA submits that the Commission's regulations, as proposed, should enable the Commission to fulfill its duties under the Act. With a minor exception, which will be addressed below, the OCA submits that the Commission has settled on a combination of reports by Electric Distribution Companies (EDCs) and Electric Generation Suppliers (EGSs) and on data elements in those reports that will facilitate Commission monitoring and review of the development of retail electric choice as well as provide interested members of the public with relevant information on the subject. The Commission's proposed regulations also do a commendable job of gathering information with regard to the types of generation products being offered by EDCs and EGSs. In addition to tracking the generation products offered, these statistics will allow the Commission to gauge customer utilization of these various products. All of this will better enable the Commission to track the development of the retail choice market.

II. Comment

Since the advent of retail electric choice in Pennsylvania, parties interested in the comparative extent of retail competition have relied on statistics compiled by the OCA, thanks to the substantial, voluntary cooperation of the EDCs. The OCA's Electric Shopping Statistics are presented for each major utility in four formats: (1) number of customers served by alternative suppliers; (2) percentage of customers served by alternative suppliers; (3) customer load (in megawatts) served by alternative suppliers; and (4) percentage of customer load (MW) served by alternative suppliers. In each format, the data are presented by EDC and by customer type for each EDC. The OCA believes that these statistics have provided value to policy makers, analysts, and market participants over the years, and will continue to provide value in the future whether provided by the OCA or the Commission. The OCA submits that this type of EDC data should continue to be collected and made available to the public.

The Commission's regulations seek to collect most of the data that the OCA has found valuable. In two areas, however, it is not clear whether the Commission's regulations will collect sufficient publicly available data. First, in Section 54.203(a)(2), the Commission should require the EDC to report on the *total* number of customer accounts being served by all EGSs in its service territory. Second, in Section 54.203(a)(2), the Commission should require the EDC to report the total sales in megawatthours in its service territory, as well as the total sales of all EGSs serving the territory.

The OCA submits that the Commission should require an EDC to report on the total number of customer accounts served by all EGSs in its service territory, i.e., the aggregate number of shopping customers. While the OCA recognizes that the Commission is collecting information from EGSs on an individual EGS basis under Section 54.203(a)(4) that could be used to compile this information, the OCA is concerned that, pursuant to proposed Section 54.204, the individual EGS information might not be made public since it could reveal EGS market share. To ensure that aggregate data is readily available to the public, the Commission should require the EDC to report the necessary information in a manner that does not reveal EGS market share.

Similarly, in Section 54.203(a)(2) the Commission should require the EDC to report on the total sales in the EDC service territory in addition to the sales by all EGSs on an aggregate basis.¹ The Commission should collect the aggregate data so that it is readily available to the public in the event that individual EGS data is deemed to be confidential.

¹ The Commission should also clarify that in Section 54.203(a)(2) it is seeking the aggregate data of sales by *all* EGSs and not sales by each individual EGS.

In terms of specific modifications to the Commission's proposed regulations, the OCA recommends amending §54.203(a)(2) as follows:

- (2) An EDC shall report retail sales activity in its service territory. The EDC shall report the following information by customer class for residential, small C&I customers, medium C&I customers and large C&I customers:
 - (i) Total number of customer accounts.
 - (ii) Number of customer accounts being served by EGSs.
 - (iii) Total sales in EDC service territory (MWh).
 - (iv) Sales by all EGSs (MWh).
 - (v) Sales by EDC (MWh)
 - (vi) Number of EGSs serving customer accounts.
 - (vii) Number of time of use customer accounts served by EGSs.
 - (viii) Number of time of use customer accounts served by the EDC.
 - (ix) Number of hourly/real time price customer accounts served by EGSs
 - (x) Number of hourly/real time price customer accounts served by the EDC.
 - (xi) Sales by EGSs to hourly/real time priced customer accounts (MWh).
 - (xii) Sales by the EDC to hourly/real time priced customer accounts (MWh).

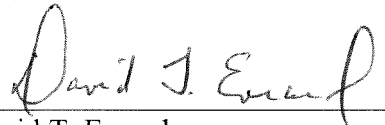
The OCA submits that with these minor modifications, the public will be assured of having continued access to the aggregate information regarding market development that has been provided over the years, and will have access to additional useful information specified in the Commission reporting requirements.

III. Conclusion

The OCA submits that the Commission has developed a very good set of proposed regulations for monitoring the development of the retail electric generation market. With the addition of the minor modifications recommended by the OCA, parties will be able to continue tracking market development.

The OCA commends the Commission on the development of the regulations thus far and will continue to work with the Commission to produce its final form regulations on this subject.

Respectfully Submitted,



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