BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Default Service and Retail Electric Markets	:	Docket No. M-00072009
Default Service and Retail Electric Markets	:	Docket No. L-00070183
Advance Notice of Final Rulemaking Order In Re: Rulemaking Re: Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2)	:	Docket No. L-00040169

INITIAL COMMENTS OF THE CONSTELLATION ENERGY GROUP COMPANIES

I. INTRODUCTION

Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, "Constellation") hereby submit Initial Comments on the Proposed Policy Statement on Default Service and Retail Electric Markets ("Policy Statement")[1] and Advance Notice of Final Rulemaking Order ("Default Service Rules")[2] issued by the Pennsylvania Public Utility Commission ("Commission") on February 8, 2007.

[1] *Proposed Policy Statement In Re: Default Service and Retail Electric Markets*, Docket No. L-00070183 (entered Feb. 9, 2007).

[2] *Advance Notice of Final Rulemaking Order In Re: Rulemaking Re: Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2)*, Commission Docket No. L-00040169 (entered Feb. 9, 2007).

II. EXECUTIVE SUMMARY

THE COMMISSION'S PROPOSED POLICY STATEMENT AND DEFAULT SERVICE RULES PROVIDE A WORKABLE FRAMEWORK FOR PROVISION OF DEFAULT SERVICE AND THE CONTINUED DEVELOPMENT OF THE COMPETITIVE WHOLESALE AND RETAIL ELECTRIC MARKETS.

Constellation applauds the Commission for its comprehensive, thoughtful promulgation of rules and policies to govern the future provision of default service in the Commonwealth. The proposed Policy Statement and Default Service Rules provide a framework that balances a variety of interests, should encourage the participation of competitive wholesale suppliers in default service competitive procurement processes, and should lead to the further development of the competitive retail electric market. That said, and as discussed in more detail herein, while Constellation supports the general framework and the vast majority of the rules and policies that the Commission has proposed for default service, Constellation recommends some modifications and enhancements that it believes will further help the Commission, Default Service Providers ("DSPs") and stakeholders achieve the policy objectives set forth therein and provide greater regulatory certainty.

Constellation strongly supports the adoption of the Commission's following proposed Default Service Rules:

- Requirement that DSPs properly unbundle distribution rates to ensure that there are no generation-related costs embedded in distribution rates;

- Elimination of declining blocks from the rate design of DSPs, as this approach provides incentives for customers to increase the use of electricity in order to get declining electric rates. Constellation argues that declining blocks are counter to current public policy goals of providing inentives for energy efficiency and such a rate design is a vestige of a time when regulators were purposely trying to get rate payers to switch from natural gas heating to electric heating;

- Adoption of common standards and processes for access to retail customer information and data;

- Adoption of uniform supplier tariffs for Electric Generation Suppliers ("EGSs"); and

Designation of a retail choice ombudsman at each DSP and at the Commission.

Finally, in order to provide stability and certainty in the market, Constellation recommends that the Default Service Rules and Policy Statement be revised as follows:

- The Commission should encourage future Commissions to adhere to the tenets of the Policy Statement and be cognizant of the need for regulatory stability;

- The Commission should make it clear that, while policies and their implementation may be modified, sanctity with respect to contracts entered into between wholesale suppliers and DSPs will be maintained and any changes will not apply retroactively;

- The Commission should encourage DSPs to procure their default service load requirements through simultaneous, coordinated procurement processes;

- The Commission should provide greater specificity and clarity regarding how the cost elements of the single rate option or Price to Compare ("PTC") are to be presented to customers;

- The Commission should clarify that interim price adjustments will be made only for reconciliation purposes, and not for changes in energy market prices, and that adjustments shall be made only to the PTC paid by consumers, not to suppliers' winning bid prices;

- The Commission should reconsider requiring that DSPs utilize spot market purchases in addition to competitive bid processes to meet their default service load requirements or, in the alternative, specifically limit the amount of default service load that may be acquired through spot market purchases;

- The Commission should clarify that DSPs' default service plans should require that winning bidders must meet their pro-rata share of minimum alternative energy portfolio requirements; and

- The Commission should clarify that winning bidders' names should be made public no earlier than 90 days after default service contracts are executed between winning bidders and DSPs.

By modifying the proposed Default Service Rules and Policy Statement as discussed in more detail below, the Commission will fully realize the goals outlined in the Policy Statement as well as encourage a wide array of stakeholders to invest resources into the Pennsylvania wholesale and retail electric markets. These Initial Comments are based upon Constellation's extensive experience in the Commonwealth and in other jurisdictions regarding the establishment of default service rules and policies and will ensure the further development of the Commonwealth's competitive wholesale and retail electric markets, providing enhanced benefits to consumers.

III. COMMENTS ON RETAIL RATE DESIGN AND RETAIL MARKET ISSUES

A. The Commission Has Crafted Several Rules Regarding Retail Rate Design that Will Aid in Development of Pennsylvania's Competitive Retail Market.

Constellation strongly supports the adoption of the following Default Service Rules as they these Rules will represent sounds and proper ratemaking principles:

- **Proposed PUC Code § 69.1808:** DSPs Being Required to Properly Unbundle Distribution Rates to Ensure that There Are No Generation-Related Costs Embedded in Distribution Rates. To the extent that costs in the distribution rates reflect services that shopping customers look to their EGS to provide, the shopping customer will pay twice for such services; and

- **Proposed PUC Code § 69.1810:** Elimination of declining blocks from the rate design of DSPs.

B. Several of the Commission's Proposed Rules Regarding the Competitive Retail Market also Will Further the Development of Pennsylvania's Competitive Retail Market.

In the proposed Policy Statement, the Commission outlined a number of rules and concepts that are to be further developed in order to enhance customer choice and facilitate the development of retail markets. Of particular interest to Constellation are the following:

- **Proposed PUC Code § 69.1812:** Adoption of Common Standards and Processes for Access to Retail Customer Information and Data;

- **Proposed PUC Code § 69.1816:** Adoption of Uniform Supplier Tariffs for EGSs; and

- **Proposed PUC Code § 69.1817:** Designation of a Retail Choice Ombudsman at Each DSP and at the Commission.

All of these measures would facilitate the development of the competitive retail market. Constellation looks forward to participating in the Retail Markets Working Group to address these and other important issues.

IV. COMMENTS ON DEFAULT SERVICE PROCUREMENT ISSUES

A. Proposed PUC Code Chapters 54 and 69, Generally: The Commission Should Provide Greater Certainty Regarding Pennsylvania's Market Structure by Encouraging Future Commissions to Adhere to the Tenets of the Policy Statement and Be Cognizant of the Need for Regulatory Stability.

While Constellation appreciates that the Commission, by promulgating some elements of its default service policies through the proposed Policy Statement, wishes to render such policies "more readily subject to change" and provide "needed flexibility . . . in the context of default service as energy markets continue to develop," Constellation nevertheless suggests strongly that the Commission provide greater certainty regarding the weight and authority of the directions it provides in the proposed Policy Statement.[3] In order for the "energy markets [to] continue to develop" as best possible, market participants need to have as much certainty as possible regarding the regulatory and economic structures of Pennsylvania's market.

Constellation asks that the Commission, in order to provide at least some greater level of stability and certainty in the market, include in the final Policy Statement a discussion noting the need for regulatory certainty in the marketplace, and urging future Commissions to strongly consider adhering to the default service policies outlined in the final, Commission-approved Policy Statement. The greater the certainty that the Commission and legislators can provide regarding the energy markets, the more likely it will be that wholesale suppliers, retail suppliers and infrastructure investors will expend their time and resources in the Commonwealth. On the other hand, absent regulatory certainty, for instance, wholesale suppliers may limit their

[3] *See* Policy Statement at p.2.

participation in, and/or include additional premiums in their bids in DSPs' competitive bid processes.

B. Proposed PUC Code § 69.1807: The Commission Should Make it Clear that, While Policies and Their Implementation May Be Modified, Sanctity with Respect to Contracts Entered into Between Default Service Suppliers and the DSPs Will Be Maintained and Any Changes Will Not Apply Retroactively.

Constellation greatly appreciates the Commission's commitment to uniformity in the Commonwealth's energy market through the development and use of "standardized request for proposal documents and supplier master agreements [("SMAs")] . . . for use in [DSPs'] default service procurements."[4] Creating such standardized documents, including the associated credit, confidentiality and bidder qualification materials, will lead to the most competitive outcomes for DSPs' customers, as potential bidders will be able to develop a heightened level of understanding of and comfort in DSPs' documents and processes, and will thus be more apt to participate in their competitive procurements. Constellation looks forward to continued participation in Commission Docket No, M-00061960, *Standardization of Request for Proposal Documents and Supplier Master Agreements in the Context of Default Service*, in order to provide recommended standardized documentation to the Commission by July 1, 2007, as directed in the proposed Policy Statement.[5]

Constellation cautions, however, that, given the proposed Policy Statement's lack of binding control over future Commissions, and the Commission's ability under the proposed Policy Statement to "review these documents and agreements on a regular basis and revise them when appropriate after consultation with stakeholders,"[6] the Commission should ensure that any future changes will not affect default service SMAs previously executed between wholesale

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4 Proposed PUC Code § 69.1807; *see also* Policy Statement at p.6.

5 *See* Policy Statement at p.6.

suppliers and DSPs. In other words, the Commission should clarify in the Policy Statement that any such changes shall not apply retroactively to previously executed SMAs. To a greater degree than with market uncertainty, if wholesale suppliers perceive uncertainty in the Commission's support of the sanctity of their *SMAs*, they are very likely to limit their participation, and/or factor premiums into their bids to account for their unhedgeable risk.

C. Proposed PUC Code § 54.185(e): The Commission Should Encourage DSPs to Procure Their Default Service Load Requirements Through Simultaneous, Coordinated Procurement Processes.

Constellation is sensitive to the Commission's concern that "the possibility of DSPs scheduling *multiple*, large procurements at the same point in time . . . might negatively impact the price of bids."[7] The Commission should, however, strongly consider requiring DSPs to work together to hold a *single*, coordinated procurement, doing so at several points in time prior to the initial delivery date for the default service load, such that no single DSP exposes and obtains too large a portion of its requirements at a single point in time. Structured correctly in this way, coordinated procurements will provide significant economies of scale, efficiencies and other gains for the benefit of consumers, without the risks of negative impacts on bid prices.

For instance, multiple DSPs could employ the same independent consultant to run and monitor their procurements, from bidder application and qualification until the award of bids, thereby achieving significant savings. This process is used and has been highly successful in New Jersey and Maryland, where there are a number of DSPs in each state. Moreover, wholesale suppliers, especially those which may have less personnel and resources to participate in all of the procurements over the course of a year, will be able to target and devote their resources to participate in, for instance, two Commonwealth-wide procurements per year.

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[6] Proposed PUC Code § 69.1807(1).

Where states have held statewide procurements in this manner, they have seen significant participation by many potential suppliers, resulting in the most competitive procurement processes, and thus, the most competitive market-priced default services for consumers.[8] For these reasons, the Commission should modify Proposed PUC Code § 54.185(e) to provide that all DSPs (or at least those in the same regional transmission organization ("RTO")) should procure their loads in a *single*, coordinated procurement, doing so at several points in time prior to the initial delivery date for the default service load.

D. Proposed PUC Code §§ 54.187 and 69.1808: The Commission Should Provide Greater Specificity and Clarity Regarding How the Costs Elements of the PTC Are Presented to Customers.

The proposed Default Service Rules and Policy Statement call for the development of a single rate option – Price-to-Compare ("PTC").[9] The stated objective of the PTC is to enable customers to make more informed choices regarding whether or not to seek service with an EGS. However, in order to meet that goal of assisting customers in making informed choices, it is necessary to reconcile Proposed PUC Code §§ 54.187 and 69.1808. Simply put, in order to meet that goal, it is necessary to allow customers to make an "apples-to-apples" comparison between an offer from an EGS and the PTC. Unfortunately, while well-intentioned, by including all of the five (5) stated cost elements contained in Proposed PUC Code § 69.1808(a) into a single price, the PTC will not allow such an easy comparison.

In order to rectify that problem, the PTC should be revised in the following four (4) ways:

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7 Default Service Rules at p.12 (*emph. added*).

8 For instance in the most recent Maryland default service procurement, there were 16 qualified bidders; in New Jersey, there were 20 registered bidders; and in Illinois, there were 21 registered bidders.

9 *See* Proposed PUC Code §§ 54.187 and 69.1808.

First, the cost elements contained in the PTC should mirror the product that is to be procured through the competitive procurement process. Any additional costs that are costs of the DSP – and not costs associated with the procurement of electric power, ancillary services, capacity, congestion, other applicable RTO and transmission service costs, or alternative energy portfolio standard compliance costs – should not be included in the PTC. Therefore, the PTC should only include the items included in Proposed PUC Code §§ 69.1808(a)(1) and 69.1808(a)(5). Those costs are truly generation-related costs that are to be procured through the competitive procurement process.

Second, it has been our experience in other default service structures that most, if not all, of the cost elements contained in Proposed PUC Code §§ 69.1808(a)(2) and (3) are separately-identified by the DSP in the form of a supply administration charge and appear as a separate line-item on the DSP bill.

Third, it has been our experience in other default service structures that applicable taxes appear as a separate line-item on the DSP bill. Therefore, taxes should not be part of the PTC.

Finally, as part of the Commission's directive that each DSP present a proper cost allocation to ensure that no generation-related charges are embedded in distribution rates, the Commission may want to consider mandating the use of a tariff mechanism that would include all transmission-related costs and services (*e.g.*, Rider TS) that are to be provided by the DSP and that are not being procured through the competitive procurement process. In the recent *Penn Power Interim POLR Plan* proceeding, the Commission adopted the use of such a tariff.[10] Again, if all of the DSPs are required to separately state transmission service (much like distribution service), it will better enable customers to make informed decisions. That way,

[10] *See Penn Power Interim POLR Supply Plan*, Commission Docket No. P-00052188.

customers are free to make decisions at any time solely based upon the price of the commodity of electricity.

Constellation strongly supports the overarching theme of reducing obstacles to customer choice and configuring a PTC that enables customers to make an informed decision of whether to take service from an EGS.

E. Proposed PUC Code §§ 54.188(f) and 69.1809: The Commission Should Clarify that Interim Price Adjustments Should Be Made Only for Reconciliation Purposes, and Not for Changes in Energy Market Prices, and that Adjustments Shall Be Made Only to the PTC Paid by Consumers, Not to Suppliers' Winning Bid Prices.

Constellation urges the Commission to affirm and clarify that the interim price adjustments to the PTC required under Proposed PUC Code §§ 54.188(f) and 69.1809 will be made only for reconciliation purposes – *i.e.*, to account for new supply mix blended into a DSP's default service load and in order to reconcile default service costs and revenues – and not for changes in published and/or estimated market prices for energy.

The Commission states in its Policy Statement that interim adjustments to the PTC will be made for two reasons: (1) to reflect changes in costs to the DSP for default service load due to acquisition of energy through multiple procurements;[11] and (2) to account for "variation between [DSPs'] revenues received and costs incurred on a month to month basis"[12] (both collectively referred to herein as "reconciliation" purposes). Constellation supports the Commission's above stated reasons for interim adjustments to the PTC. However, Constellation urges the Commission to be clear that interim adjustments to the PTC will not be made to account for changes in published and/or estimated market prices for energy (collectively, "energy market prices").

[11] Policy Statement at pp.7-8.

Interim adjustments to the PTC for changes in energy market prices are not advisable from a policy perspective in order to achieve maximum benefits from competitive procurements. If a wholesale supplier bids on a one-year or a three-year default service product, for instance, it is including in its bid price its expectations of where the market is and will be over the term of the product. In doing so, the bidder provides a fixed price that achieves a reasonable amount of price stability, but also is reflective of the market. Importantly, it shifts risk management to the parties that are best equipped to do so: the wholesale suppliers. Adjusting the PTC for any reason other than reconciliation purposes negates the value of wholesale suppliers' abilities to manage portfolios and analyze and account for market changes and therefore does not provide for price stability. Rather than constantly 'true-ing up' the PTC to energy market prices, price diversity and market-priced service can be achieved, with some measure of price stability, by the Commission's proscribed competitive procurement structure which couples laddered contracts with multiple procurements leading up to the date of default service delivery (for residential and non-residential customers with up to 500 kW in maximum demand), much like the structure recently approved by the Administrative Law Judge in PPL Electric Utilities Corporation's ("PPL") proceeding before the Commission regarding PPL's Competitive Bridge Plan to procure its provider of last resort obligations.[13] As an added benefit, the Commission has recognized that this approach taken by PPL is an effective strategy to mitigate rate shock, *i.e.*, "to avoid large, abrupt increases in retail rates . . . ."[14] This structure will have the effect of achieving price diversity and prices reflective of changing market prices, without subjecting ratepayers to the

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12 Policy Statement at p.8.

13 *See Recommended Decision In Re: Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan*, Commission Docket No. P-00062227 (issued Feb. 21, 2007).

14 *Tentative Order In Re: Policies to Mitigate Potential Electricity Price Increases*, Commission Docket No. M-00061957 (entered Feb. 13, 2007).

unpredictable volatility of frequent true-ups to energy market prices. Finally, this structure recognizes that customers are always able to elect to take service from an EGS to achieve their own desired product type.

With respect to adjustments to the PTC, Constellation additionally requests that the Commission make clear that any interim adjustments to the PTC that occur under Proposed PUC Code §§ 54.188(f) and 69.1809 will be adjustments only to the price paid to the DSP by customers, not adjustments to the winning supplier's bid price paid by the DSP. For the same reasons expressed above in Section IV.B., wholesale suppliers require certainty with respect to the terms, conditions and prices of their executed SMAs.

F. Proposed PUC Code §§ 54.186(b)(4) and 69.1804: The Commission Should Reconsider Requiring that DSPs Utilize Spot Market Purchases in Addition to Competitive Bid Processes to Meet Their Default Service Load Requirements or, in the Alternative, Specifically Limit the Amount of Default Service Load that May Be Acquired Through Spot Market Purchases.

The Commission in its proposed Policy Statement and Default Service Rules allows and, for the future, encourages DSPs to submit default service procurement plans in which they not only hold competitive procurement processes to meet their supply requirements, but also actively participate in energy markets by monitoring for, analyzing and making purchases in spot markets.[15] Constellation generally supports default service structures in which DSPs are relieved from this type of responsibility to actively manage a portfolio of supply contracts to meet their load obligations.

Requiring DSPs to not only run competitive procurement processes for meeting their load requirements, but also to retain personnel and expend resources to actively manage an energy portfolio by additionally making purchases in the spot markets is an inefficient way to achieve

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[15] *See* Proposed PUC Code §§ 54.186(b)(4) and 69.1804.

competitive default service prices for consumers. As DSPs' load must always be met with full requirements products, in order to actively manage their load obligations, DSPs will have to retain individual experts who understand and follow not only electric energy markets, but also ancillary services, capacity and renewable products markets.

Wholesale suppliers provide a more cost-effective method of default service supply management for DSPs. Wholesale suppliers are experts in the area of portfolio management, and have greater resources, expertise and ability to appropriately manage portfolios of supply at the least possible cost. These wholesale suppliers pass on the savings they achieve due to their sophisticated risk management skills in the form of more competitive bids for full requirements default service products in procurements held by DSPs. Wholesale suppliers have already invested in, and continue to make significant investment in acquiring, experts in each specific type of market which make up full requirements supply, who understand and are able to best analyze and make purchases for the lowest costs for each type of product. These experts use far more than the electric markets and reliance on bilateral contracts for physical supply in order to manage their price risk position – *e.g.*, they utilize gas, coal and nuclear fuel markets, futures, swaps and derivative products and other hedging instruments.

The structure proposed by PPL in its Competitive Bridge Plan, as discussed above, and as proscribed by the Commission for competitive procurements under its proposed Policy Statement and Default Service Rules, will achieve the most competitive price at various points in time in the market, such that consumers will get the benefit of changes in the market price for full requirements load, without requiring that DSPs additionally make purchases in spot markets.

To be sure, this structure allows a DSP to have a mixed portfolio of supply products, as required under the proposed Default Service Rules,[16] without having to actively manage the portfolio.

However, if the Commission nevertheless requires DSPs to make spot market purchases to supplement the full requirements default service supplies that they obtain through competitive procurement processes, the Commission should require DSPs to carve out in their proposed default service procurement plans a specific fixed portion of their load for which they will meet requirements through spot market purchases. For instance, the Commission could mandate that under each DSP's default service procurement plan, the DSP at all times will meet 5% of its default service load through spot market purchases, and the remaining 95% through bids awarded in its competitive procurement process. Bidders thus will have certainty regarding the base product – *i.e.*, their share of the DSP's total default service load – on which they are bidding and for which they will be obligated to supply energy. Without such certainty through a defined percentage of default service load, bidders will have to factor into their bids risk premiums to account for the chance that the DSP at any point over the course of the SMA will have the ability to take action, via spot market purchases, to reduce or even eliminate a winning bidder's awarded load. This certainty can best be provided through product structures and contractual provisions that indicate clearly that a supplier's load obligation will not be adversely affected by any such spot market purchases by the DSP.

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[16] Default Service Rules at p.20 (stating that "In both this rulemaking and the accompanying policy statement, the Commission is encouraging DSPs to acquire a portfolio of generation supply products").

G. Proposed PUC Code §§ 54.185(d)(1) and 69.1806: The Commission Should Clarify that DSPs' Default Service Plans Should Require that Winning Bidders Must Meet Their Pro-Rata Share of Minimum Alternative Energy Portfolio Requirements.

In Proposed PUC Code § 54.185(d)(1), the Commission provides that a DSP's procurement plan should "identify the means of satisfying the minimum portfolio requirements of the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.1, *et seq.*, for the period of service."[17] Constellation submits that the Commission should revise Proposed PUC Code § 54.185(d)(1) to specifically require that DSPs' procurement plans provide that a supplier that contracts with a DSP to provide default service load must meet its respective share of the DSP's minimum portfolio requirements. For instance, a bidder in a competitive procurement that wins the right to supply 10% of a DSP's load should be required to meet 10% of such DSP's minimum portfolio requirements. In the case that the winning bidder fails in this obligation, the DSP's SMA should include provisions to appropriately assess penalties against the winning bidder. Coupled with the presence of PJM Interconnection, LLC's Generator Attribute Tracking System, a well-established platform for tracking and transacting renewable energy attributes, this method of compliance has worked well in other jurisdictions. This method provides the appropriate market incentives for suppliers to invest in or enter into contracts that facilitate investment in the development of renewable energy markets, as Constellation itself has done to meet alternate energy resource requirements for other jurisdictions' default service procurements.

[17] Proposed PUC Code § 54.185(d)(1).

H. Proposed PUC Code §§ 54.186(c)(5) and 69.1807(7): The Commission Should Clarify that Winning Bidders' Names Should Be Made Public No Earlier than 90 Days After Default Service Contracts Are Executed Between Winning Bidders and DSPs.

The Commission notes in its proposed Policy Statement that:

> [s]upplier participation, bid prices, and retail rates may be impacted by protecting certain information, including, but not limited to, the identity of winning and losing bidders, the number of bids submitted, bid prices, the allocation of load among winning bidders, etc. At the same time, the Commission recognizes that there is a legitimate public interest in knowing some of this information when there is no possibility of any prejudice to ratepayer interests.[18]

Constellation submits that the Commission should modify the proposed Default Service Rules and Policy Statement to only allow for the release of winning bidders' names no earlier than 90 days after execution of the applicable SMA by a winning bidder and a DSP. Maintaining confidentiality of winning bidders' names as long as reasonably possible improves the success and viability of a DSP's competitive procurement process. Winning bidders rely on the ability to hedge in the wholesale market well into the months after bids are awarded in order to support the competitive prices for those bids submitted in the procurement process. Winning bidders may need to hedge in the months after bids are awarded and over time in order to obtain the necessary supply to fulfill their obligations and prevent overexposure in the wholesale market at any one time. This ability to hedge provides potential bidders with the ability to bid and achieve the most competitive prices for default service consumers over the course of the default service supply period. When the wholesale market is made aware through the early release of winning bidders' names that certain suppliers have an obligation that they must satisfy, such bidders' ability to negotiate is compromised. While there indeed are jurisdictiosn which release bidders' names earlier than 90 days after contract execution, there exists no compelling arguments as to why a

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[18] Proposed PUC Code § 69.1807(7).

90-day time period for the release of bidders' identities will not sufficiently meet the needs of the general public, or how release of winning bidders' names any sooner will provide any practical value to consumers. In lieu of a shorter time period for the release of winning bidder identities, a 90-day time frame provides a proper balance between the benefits provided to bidders' prices and ability to hedge and the general public's need to know winning bidders' identities.

Constellation notes that the Commission also should refrain from considering any public release of information regarding particular bidders' specific prices for and amounts of default service supply obligations. Such information also significantly compromises winning bidders' ability to negotiate and transact in the wholesale markets, as their competitors will gain access to winning bidders' competitively sensitive information. The more a competitor understands regarding the requirements and load supply obligations of a winning bidder, the more leverage such competitors may have in negotiations with such winning bidder for transactions that may be used to meet such winning bidder's default service supply obligations.

V. <u>CONCLUSION</u>

Constellation appreciates this opportunity to submit its Initial Comments regarding the Commission's proposed Default Service Rules and Policy Statement for default service in the Commonwealth. Constellation is confident that its above suggestions will ensure the most competitive default service prices from wholesale markets through robust, competitive processes, while at the same time encouraging development of the Commonwealth's retail markets, both to the benefit of Pennsylvania's consumers.

Respectfully submitted,

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