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June 10, 2008

VIA HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
2nd Fl., 400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Position Paper of the Retail Energy Supply Association
Retail Market Working Group; Docket No. M-00072009

Dear Secretary McNulty:

Enclosed for filing, in the above-referenced matter, are the original and ten (10) copies of the Retail Energy Supply Association's ("RESA") Position Paper.

If you have any questions regarding this filing, please contact me at your convenience.

Very truly yours,



Kevin J. Moody
For WolfBlock LLP

KJM/jls
Enclosures

cc: Lawrence F. Barth w/enc, Via email

HAR:80977.1/MID051-158834

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Retail Markets Working Group

:
: Docket No. M-00072009
:

**POSITION PAPER OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

By Secretarial Letter dated April 26, 2008, the Commission announced the convening of the Retail Markets Working Group ("RMWG") referenced in its Order adopting the Policy Statement on Default Service.¹ The purpose of the RMWG is to develop policy recommendations to enhance customer choice and the development of robust and effective retail electricity markets. More specifically, the RMWG is to focus on the six specific areas identified in the Commission's Policy Statement at 52 Pa. Code §§ 69.1812 – 69.1817. In its Secretarial Letter, the Commission invited interested parties to submit position papers on the enumerated topics and to help "determine the nature and type of subgroup meetings to be held."²

The Retail Energy Supply Association ("RESA") is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than regulated utility structure.³ RESA members are licensed to sell electric energy in the markets of Pennsylvania's major electric distribution companies ("EDCs"). RESA's goal is to advocate and work towards the creation of vibrant and

¹ *Default Service and Retail Electric Markets*, Docket No. M-00072009, Final Policy Statement Order entered May 10, 2007, at 13.

² 38 Pa.B. 2029.

³ RESA's members include Commerce Energy, Inc., Consolidated Edison Solutions, Inc; Direct Energy Services, LLC; Gexa Energy, Hess Corporation; Integrys Energy Services, Inc.; Liberty Power Corp.; Reliant Energy Retail Services, LLC; Sempra Energy Solutions; Strategic Energy, LLC; SUEZ Energy Resources NA, Inc. and US Energy Savings Corp. The opinions expressed in this filing represent the position of RESA as an organization but may not represent the view of any particular member of RESA.

sustainable competitive retail energy markets where competitive retailers, not regulated utilities, provide retail electric service to consumers. Retail competition is superior to regulated service as it delivers customer-focused service, enables innovative product development and leads to the most efficient market price. All consumers should be afforded the opportunity to participate in properly functioning and workable competitive retail markets and to avail themselves of the resulting benefits that only such competitive retail markets can deliver. This is not only RESA's goal but the goal of this Commonwealth, as expressed in the Electric Retail Choice Act.⁴

To this end, RESA commends the Commission's initiative in creating the RMWG to help advance the goal of robust and effective competitive markets and offers this position paper as a way to help ensure successful achievement of that goal. While individual RESA members have varying degrees of interest in each of the of the six retail market development initiatives and will provide company-specific position papers for the Commission's consideration, RESA as an organization shares an interest in the process that will be undertaken by the RMWG. As detailed more specifically below: (1) the RMWG needs to complete its work quickly; (2) convening the RMWG must not be used to forestall development and implementation of any of these retail market initiatives in any pending or future EDC-specific default service proceedings; and (3) the end product of the RMWG should be specific recommendations to the Commission concerning implementation of these initiatives, with the Commission adopting the approved recommendations using the Tentative Order, comment and Final Order process within a time frame that ensures implementation of the approved recommendations as soon as possible.

⁴ 66 Pa. C.S. §§ 2801-2812 (“Electricity Generation Customer Choice and Competition Act”).

Timing

The RMWG needs to complete its work quickly. In the Policy Statement Order the Commission stated its expectation that the RMWG activities would "be completed well before the expiration of the remaining generation rate caps,"⁵ yet the work of the RMWG has already been delayed by more than seven months after the time specified in the Policy Statement Order (by October 31, 2007, 45 days after publication of the Policy Statement). The RMWG process needs to have certain and firm timeframes and deadlines to ensure that the process moves along and culminates quickly with meaningful, specific recommendations to the Commission to enable implementation of approved recommendations in time to be incorporated into specific EDC default service programs.⁶ RESA notes that rate caps expire on December 31, 2010 for the majority of electric consumers (West Penn; MetEd; Penelec; PECO), and as early as December 31, 2009 for a very significant number of electric consumers (PPL). Accordingly, RESA recommends that the RMWG complete its work by January 2009. This should provide sufficient time for the Commission to consider and approve specific recommendations to permit timely implementation by the EDCs.⁷

⁵ Order at 13-14.

⁶ In addition to the development and adoption of the Policy Statement and retail market initiatives in the Default Service rulemaking proceeding, the Commission's expectation that the RMWG will complete its activities "well before the expiration of the remaining generation rate caps" and the Commission's statement that its Policy Statement "provides guidelines on the integration of default service with the competitive retail market" demonstrate the Commission's intent that these retail market development initiatives be implemented through the EDC's default service programs. Final Policy Statement Order at 13-14.

⁷ EDC default service programs must be filed no later than 12 months before the expiration of generation rate caps or an approved default service program (e.g., PPL Competitive Bridge Plan for 2010). 52 Pa. Code § 54.185(a). RESA suggests that EDCs with existing default service programs should be required to demonstrate compliance with the specific RMWG recommendations approved by the Commission.

Effect of Convening RMWG

The RMWG must not be used to forestall development of any of these retail market development initiatives in the context of any pending or future default service proceeding. The Commission has already chosen to address some of these retail market issues in the context of currently effective default service programs (i.e., purchase of receivables (“POR”) programs in Duquesne Light Company and Pike County Light and Power Company). Further, in its Policy Statement the Commission invited EDCs to submit POR programs to the Commission for review and approval notwithstanding the Commission's intent to convene the RMWG. While the general parameters of these initiatives will likely be crafted in the RMWG, the details of implementing a particular initiative in an EDC's service territory may depend upon facts and circumstances of the particular EDC and its market.⁸ Because an EDC's default service program proceeding provides a good forum for considering EDC-specific factual circumstances, it makes no sense to defer implementation of these retail market initiatives in proceedings in which the record supports implementation. Indeed, although West Penn Power Company did not propose initiatives such as a POR program or a customer referral program in its pending default service proceeding, other parties did. Nonetheless, some parties in that pending case are attempting to use the convening of the RMWG as a way to avoid resolving some of these retail initiatives in

⁸ For example, the level of discount at which a utility is required to purchase receivables depends upon such EDC-specific facts and circumstances such as the level of bad debt expense being recovered in the EDC's rates, the amount of shopping in the EDC's service territory, and the level of incremental bad debt expense attributable to EGSs.

that case, and the ALJ's Initial Decision recommends approval of that approach. The Commission must be clear that this is not its intent.⁹

Outcome of RMWG

The product of the RMWG's efforts should include specific recommendations to the Commission concerning how these retail market development initiatives are to be implemented in particular EDC markets and service territories. In order to address the RMWG's recommendations in a timely manner, the Commission should issue a Tentative Order concerning the recommendations and provide the parties with opportunities for comments and reply comments, resulting in a Final Order adopting the approved recommendations. RESA suggests that the Commission establish June 2009 as the deadline for adopting its Final Order to provide ample time for the incorporation of these initiatives into the EDCs' default service programs.

Respectfully submitted,



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Date: June 10, 2008

⁹ The exception period in West Penn's case ends June 23, 2008, so the RMWG will most likely have some guidance from the Commission on this point when the Commission issues its order in the West Penn proceeding.