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Via Overnight Mail

Pennsylvania Public Utility Commission
ATTN: Rosemary Chiavetta, Secretary
400 North Street
Commonwealth Keystone Bldg.
Harrisburg, PA 17105-3265

Dear Rosemary,

Attached for filing are the comments from BlueStar Energy Solutions regarding the *Tentative Order and Appendix A 2010,* Docket Nos. M-2010-2195286 and M-0001437.

Please contact me if I can be of further assistance.

Regards,

BLUESTAR ENERGY SOLUTIONS

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BEFORE THE
PENNSYLVANIA PUBLIC SERVICE COMMISSION

Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service; Amendment re: Supplier Contract Renewal/Change Notices	)))))	**Docket No. M-2010-2195286** **Docket No. M-0001437**

Comments of BlueStar Energy Solutions

Pursuant to the Pennsylvania Public Utility Commission's ("Commission") Tentative Order adopted on September 2, 2010 ("Tentative Order"), the Commission seeks comment on two proposed amendments to the Commission's Interim Guidelines.[1] BlueStar Energy Services, Inc. d/b/a BlueStar Energy Solutions ("BlueStar") files its Comments addressing these proposed amendments.

I. AMENDMENT OF GUIDELINE II (b)(iii) – The Price To Compare on Option Notices.

The first proposed amendment responds to those situations in which the Price-to-Compare[2] ("PTC") is not readily available to Electric Generation Suppliers ("EGSs") as part of the customer contract renewal process. The Tentative Order presented three separate options for addressing this concern. Option One would include the current PTC on the renewal notice; Option Two would include no PTC on the notice; and Option Three would include an estimated PTC. The Office of Competitive Market Oversight ("OCMO") recommended, and the Commission tentatively adopted, Option Three.

After reviewing the three options, BlueStar supports a modified version of Option Three – require the inclusion on the option notice of an estimated PTC with information as to when and

[1] *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service* ("Interim Guidelines")

[2] The Price-to-Compare ("PTC") is defined as "[a] line item that appears on the retail customer's monthly bill for default service. The PTC is equal to the sum of all unbundled generation and transmission related charges to a default service customer for that month of service." 52 Pa. Code § 54.182 (definitions).

where customers can obtain the actual PTC when it's available, but use the Commission's website to inform customers as to the actual PTC.

The purpose for this guideline is to provide all relevant information to customers so they are able to make an informed decision when a renewal notice arrives. Of all three options, Option Three provides the most accurate PTC and therefore comes the closest to achieving this objective. BlueStar believes that Option Two should be rejected since the customer would not receive any information regarding the PTC. Option One is of little value since the current PTC would almost certainly change. Option Three provides the customer with the most reliable information available to make an informed decision on how best to respond to a renewal notice. BlueStar agrees with the Tentative Order that an estimate is not ideal since customers may be angry and confused if the estimated PTC is substantially different from the actual PTC. However, an estimate is the most accurate information available as to what the future PTC will be and is therefore more useful to customers then dated information or no information at all.

BlueStar notes that there is precedent for using an estimated PTC. In the autumn of 2009 when suppliers first started marketing in PPL Electric Utilities' ("PPL's") territory prior to the expiration of PPL's rate caps, suppliers used an estimated PTC when providing customers with information about shopping for alternative suppliers. BlueStar is not aware of any customer complaints or any other concerns regarding this approach.[3]

BlueStar agrees with the Tentative Order that the electric distribution company ("EDC") be responsible for calculating the estimated PTC. It is impossible for EGSs like BlueStar to calculate an EDC's PTC since BlueStar does not have the necessary information to perform this calculation. As BlueStar understands the requirement, the PTC is determined by the costs of default supply and transmission costs. The only source for the default supply costs are the EDCs. In addition, BlueStar assumes that for planning purposes, EDCs should have a good understanding as to what their new default price will be based on estimates of spot market purchases and long term contracts that may be part of their portfolio. As a result, most if not all the relevant information used to calculate the PTC resides with the EDC, making them the obvious choice for calculating an estimated PTC.

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[3] See also Tentative Order, pg. 7.

The proposed guideline states that customers may contact the EDC or access www.papowerswitch.com to obtain the actual PTC information when it's available. BlueStar respectfully recommends that the proposed guideline be modified to make the Commission the contact entity that would provide this information to customers and exclude EDCs from this role. BlueStar believes that an impartial, neutral source be responsible for providing the actual PTC to customers when it's available.

In the Committee for Handling Activities for Retail Growth in Electricity ("CHARGE") meetings, the EDCs expressed concern with the amount of customer traffic to their call centers if they are the source for the PTC. While neither agreeing with nor disputing this assertion, BlueStar does agree with the EDCs that they should not be the entity providing actual PTC information to customers. The Commission has the necessary resources (both internet and call center) to handle an increase in customer traffic. More importantly, the Commission has an unbiased role in this process and would not attempt to influence a customer's purchasing decision. Finally, BlueStar is concerned with how EDCs will react to angry or confused customers if the actual PTC is significantly different from the estimate. The Commission has the necessary experience dealing with these types of customers and given their neutral role, BlueStar would prefer the Commission handle these situations as opposed to EDCs.

II. NEW INTERIM GUIDELINE II (d) – Customer Fails to Respond to Renewal/Change Notices

The second proposed amendment seeks comment on those situations when a customer fails to respond to a renewal notice sent by the EGS. The Tentative Order outlined four options – Option One would adopt the "Gas Rule" for electric customers whereby a fixed term contract may be converted to a month-to-month contract, or a new fixed term contract, either at the same terms and conditions or at revised terms and conditions, as long as the customer has the flexibility to cancel the new contract at any time without cancellation penalties; Option Two would allow a fixed term contract to convert to a new fixed term contract, either at the same terms and conditions or revised terms and conditions, provided the customer has the flexibility to cancel the contract 30 days after receiving the first bill under the new contract; Option Three would allow a fixed term contract to be converted to a new fixed term contract, either at the same terms and conditions or revised terms and conditions which may include cancellation penalties;

and Option Four would make the renewal procedure and customer response requirements contingent upon the renewal terms that the EGS is proposing. The OCMO recommended Option Two, and the Commission tentatively adopted Option One.

BlueStar recommends that the Commission adopt Option Three – a new agreement goes into effect including cancellation penalties.

As discussed in the Tentative Order, customers receive two renewal notices before the contract expires. The initial notice is sent 52 to 90 days before the contract expires and contains information on any proposed changes to the terms of service. The second notice is provided at least 45 days before the contract expires. In addition to describing changes in the terms of service, this notice also contains information regarding new prices and an explanation as to the customer's options and how to exercise these options. In BlueStar's opinion, the combination of these two notices provides the customer with sufficient information that if the customer fails to respond to a renewal/change notice, a new contract should go into effect, including cancellation penalties. This approach properly balances customer protections and EGSs' business operations. BlueStar notes that the Commission came to the same conclusion in December 2000 when the Commission issued a Tentative Order in this docket and concluded that, "the issuance of two notices is sufficient to ensure that consumers receive adequate notice and have time to shop for alternative supply before the effective date of any proposed change in the terms of service."[4] There has been no new evidence presented to the Commission to suggest that its 2000 conclusion should be modified.

BlueStar opposes Option One (the "Gas Rule") and Option Two. BlueStar believes that these proposals, albeit well-intended, are not necessary. Both Option One and Option Two are variations on the same theme, that a customer has the option to cancel a contract and not pay cancellation fees. BlueStar would like the Commission to understand that cancellation fees apply when a customer cancels a valid contract before the end of the term of the contract and are designed to compensate EGSs for the expenses incurred had the term of the contract been fulfilled. In addition, cancellation fees are commonly included in service contracts entered into

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[4] *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service*, Tentative Order; Docket No. M-00001437; Dec. 7, 2000, pg. 5.

by consumers, and no reason exists that EGS contracts should be subjected to less protection under the law than those of other service providers

Instituting a guideline that would allow a customer to cancel a fixed-price contract (as outlined with Option One) or allow a customer to cancel a contract with no cancellation fees 30 days after receiving the first bill under the new contract (as outlined with Option Two) precludes an EGS from recovering actual incurred damages. Once the contract is renewed, the EGS must procure the necessary energy from the wholesale market. If a twelve month contract is canceled 30 days after the first bill is received under the new contract, the EGS will have incurred actual damages since they are still financially responsible for the full twelve months of procured energy. This will require additional pricing premium be built into EGSs' contracts with customers without any discernible benefit. The better solution is to require full disclosure via the first and second renewal notice discussed previously and explain the options available to the customer.

In response to Option One (the "Gas Rule"), BlueStar believes that this approach is inappropriate for EGSs since the gas and electric markets are two distinctly different commodities in numerous aspects and should be treated as such. Most EGSs have hedging practices that dictate that an EGS pre-purchase most of the estimated usage for the contract term within a few days of contract execution. In addition, gas can be stored while electricity cannot. As a result, provisions allowing gas contracts to be canceled without penalties have very different financial and operational consequences then EGS contracts. There has been no discussion of these issues in the CHARGE meetings and BlueStar strongly opposes this approach without the benefit of a full and complete understanding of the resulting financial consequences.

III. CONCLUSION

BlueStar respectfully recommends that for Guideline II (b)(iii), the Commission adopt Option Three, as modified herein by BlueStar and designate the Commission as the responsible entity to notify customers of the actual PTC. BlueStar also recommends that for the new Interim Guideline II (d), the Commission adopt Option Three.

Respectfully submitted,

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