

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105**

**INVESTIGATION OF
PENNSYLVANIA'S RETAIL
ELECTRICITY MARKET**

**Public Meeting April 28, 2011
2237952-CMR**

**JOINT MOTION OF
CHAIRMAN ROBERT F. POWELSON AND
VICE CHAIRMAN JOHN F. COLEMAN, JR.**

In 1996, Pennsylvania emerged as a national leader in electricity policy and passed the Electricity Generation Customer Choice and Competition Act.¹ At that time, the Legislature stated that “[e]lectric service is essential to the health and well-being of residents, to public safety and to orderly economic development, and electric service should be available to all customers on reasonable terms and conditions.”² The Legislature further recognized that “[t]he cost of electricity is an important factor in decisions made by businesses concerning locating, expanding and retaining facilities in this Commonwealth.”³

Those words remain as true today as when the Competition Act was passed. In the time since the passage of the Competition Act, though, the marketplace has evolved. As we have stated before, one of the great challenges for regulators is keeping up with the industries and markets they regulate. It was with those thoughts in mind that when approving the FirstEnergy – Allegheny Power merger, we announced that the Commission will be conducting a statewide investigation “with the goal of making recommendations for improvements to ensure a properly functioning and workable competitive retail electricity market exists in the state.”⁴ The purpose of our Motion today is to officially launch the investigation.

We believe that it is prudent to break the investigation into two phases. The first phase is designed to assess the status of the current retail market and explore what changes need to be made to allow customers to best realize the benefits of competition. At the conclusion of this first phase, the Commission will initiate the second phase to examine and address how to best resolve the issues raised and implement the prudent changes identified based upon our review of the Comments received.

¹ 66 Pa. C.S. §§ 2801 – 2812. Act 129 of 2008 subsequently amended Chapter 28 of the Public Utility Code and added Sections 2813 – 2815.

² *Id.* at § 2802(9).

³ *Id.* at § 2802(6).

⁴ *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code approving a change of control of West Penn Power Company and Trans-Allegheny Interstate Line Company*, Docket Nos. A-2010-2176520 and A-2010-2176732, Opinion and Order at 46.

To that end, interested parties are directed to answer the following questions, with responses due June 3, 2011.

1. What is the present status of competition for retail electric generation for customers, by class and service territory, and for alternative suppliers?
2. Does the existing retail market design in Pennsylvania present barriers that prevent customers from obtaining and suppliers from offering the benefits of a fully workable and competitive retail market? To the extent barriers exist, do they vary by customer class?
3. What are the economic and managerial costs associated with electric distribution companies (EDCs) fulfilling the default service role?⁵ Are the EDCs accurately passing those costs along to default service customers? Do default service rates include any elements that are not cost-based? Is an examination of distribution rates needed to ensure proper cost allocation? Are there barriers to competition as a result of having EDCs provide default service?
4. Are there unintended consequences associated with EDCs providing default service, and related products, such as time-of-use rates?
5. Should default service continue in its current form? Does default service impede competition or otherwise prevent customers from choosing electricity products and services tailored to their individual needs? Does default service provide an advantage to the incumbent EDC and/or its generation affiliates?
6. Can/should the default service role be fulfilled by an entity, or group of entities, other than the EDC? If the default service role should be filled by an entity other than an EDC, what mechanisms could be employed to transition the default service role away from the EDC and onto competitive electric generation suppliers (EGSs)? Are different approaches appropriate for different customer classes? What criteria should be used to ensure that EGSs are qualified to assume the default service role and maintain reliable service?
7. How can Pennsylvania's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electricity market? Are there additional market design changes that should be implemented to eliminate the status quo bias benefit for default service?

⁵ See generally 52 Pa. Code §§ 54.182 and 54.184.

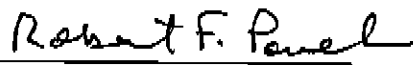
8. What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?
9. What changes, to Regulations or otherwise, can the Commission implement on its own under the existing default service paradigm to improve the current state of competition in Pennsylvania?
10. What legislative changes, including changes to the current default service model, should be made to better support a fully workable and competitive retail market?
11. Are there, or could there be, potential barriers being created by the implementation of the EDC Smart Meter plans?


Upon receipt and review of comment from all interested parties, the Commission will initiate the second phase of the investigation by organizing working groups to be headed by the Commission's Office of Competitive Market Oversight. These working groups will be tasked with studying how best to address and resolve the issues identified by the Commission as being most relevant to improving the current retail market. Upon conclusion of the investigation, the working groups shall provide recommendations outlining specific courses of action to be taken by the Commission to improve the retail electricity market.

Lastly, the Commission will be holding two *en banc* hearings, one for each stage of the investigation, to allow invited parties the opportunity to discuss the topics raised in this proceeding. The first *en banc* hearing is scheduled for June 8, 2011. The Commission will schedule a subsequent *en banc* hearing upon launching the second phase of the investigation.

THEREFORE, WE MOVE THAT:

1. The Office of Competitive Market Oversight prepare an Opinion and Order consistent with this Motion.


Robert F. Powelson
Robert F. Powelson
Chairman


John F. Coleman, Jr.
John F. Coleman, Jr.
Vice Chairman

Dated: April 28, 2011