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April 3, 2014

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate
Retail Electric Products – Docket no. M-2014-2406134

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Direct Energy Services, LLC's Comments to Order Entered March 4, 2014 with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Clearfield/lw". The signature is written in a cursive style.

Daniel Clearfield

DC/lww
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Review of Rules, Policies and Consumer :
Education Measures Regarding Variable : Docket No. M-2014-2406134
Rate Retail Electric Products :

**COMMENTS OF
DIRECT ENERGY SERVICES, LLC
TO ORDER ENTERED MARCH 4, 2014**

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Date: April 3, 2014

TABLE OF CONTENTS

- I. INTRODUCTION1**
- II. COMMISSION GUIDANCE REGARDING THE MARKETING OF PRODUCTS IS IMPORTANT.....2**
- III. RESPONSES TO QUESTIONS REGARDING TYPES OF VARIABLE-PRICED CONTRACTS.....2**
 - A. Price Protection for Variable Priced Customers2**
 - B. For Variable-Priced Contracts Without Explicit Formulaic Pricing Parameters (“Non-Indexed Products”)4**
 - 1. Should EGSs be required to provide advance notice of price changes to customers?4
 - 2. Should the advance notice requirement be waived for minor contract price changes, within certain bounds? If so, what bounds are appropriate?4
 - 3. If advance notice is required, how far in advance of the meter read date should notice be provided and how can this notice be provided?.....4
 - 4. Do variable rate contracts without explicit pricing parameters provide consumers with the information needed to make informed decisions? If not, what is the remedy?4
- IV. COMMENTS REGARDING ACCELERATED SWITCHING.....5**
- V. CONCLUSION8**

I. INTRODUCTION

On March 4, 2014, the Pennsylvania Public Utility Commission (“Commission”) opened a docket to review its rules, policies and consumer education measures regarding variable rate retail electric products of electric generation suppliers (“EGS”). The Commission stated in its March 4th Order that it was opening the investigation in response to high customer bills experienced as a result of customers being on variable rate products during the unprecedented rise in wholesale generation market prices experienced this past winter. The Commission asked for comments on several different items related to variable price formula disclosure as well as whether customers with advanced meters can be switched quicker than the current one to two bill cycles required today. Direct Energy Services, LLC (“Direct Energy”) hereby files its Comments in this docket.

Direct Energy understands that the Retail Energy Supply Association (“RESA”) will also be submitting comments in this proceeding. Direct Energy largely supports the RESA comments. However, Direct Energy submits its own comments to provide the Commission with additional information as to Direct Energy’s activities to protect customers (particularly residential customers) from high energy bills resulting from unforeseen market events to provide our perspective. The impacts of the Polar Vortex event show the critical need to address certain wholesale and retail market practices to mitigate the customer impacts of events like this in the future. Direct Energy believes that its response to the Polar Vortex, as described below, can assist the Commission in identifying commercially reasonable methods of protecting consumers without unnecessarily retarding the competitive market.

II. COMMISSION GUIDANCE REGARDING THE MARKETING OF PRODUCTS IS IMPORTANT

Direct Energy supports the Commission's on-going efforts to ensure that customers are informed about the nature of their supplier contracts through the disclosure statements and other supplier required notices regarding contract expiration or a change in contract terms. While clarity regarding the Commission's expectations in these areas is important, the marketing and communications from suppliers to customers – outside of the disclosure statements and renewal notices – also needs to be addressed. Direct Energy supports RESA's proposed disclosure statements which provide further clarity regarding contract terms. We believe all suppliers should be required to identify and communicate clearly to customers all pricing and term information, any early termination fees and the details for how the supplier will serve the customer after the expiration of any initial contract period. Direct Energy believes that an appropriate model to follow would be the existing "Schumer box", which is used today by the credit card industry as its prime disclosure method.¹ Direct Energy strongly recommends that the Commission implement the necessary rule changes to make all retail suppliers provide a standardized Schumer box for customer disclosure agreements.

III. RESPONSES TO QUESTIONS REGARDING TYPES OF VARIABLE-PRICED CONTRACTS

A. Price Protection for Variable Priced Customers

Direct Energy has taken a leading role in the industry by implementing price protection plans for all of its Pennsylvania residential customers on variable rates. Direct

¹ A "Schumer Box" is a standardized disclosure "box" that features relatively consistent terms and conditions for credit card offers. The "box" displays the specific terms and conditions of a credit card agreement such as rates, annual fees and rate calculation methods. See Nasdaq, Credit Card Glossary, available at <http://www.nasdaq.com/personal-finance/credit-card-glossary.stm>. Examples of Schumer box disclosures may be found by searching the Consumer Financial Protection Bureau's Credit Card Agreement Database at <http://www.consumerfinance.gov/credit-cards/agreements/>.

Energy's "Price Protection Plan" includes maximum variable rates (per utility service territory) for a set term (currently 6 months). The "Price Protected Rate", while above Direct Energy's current variable prices for residential customers, provides variable rate customers with the flexibility of a month-to-month contract with protection against extraordinary price spikes.² If the price protection level changes, Direct Energy will provide residential customers with a minimum of thirty (30) days advance notice regarding the maximum rate for the next protection period.

Direct Energy appreciates that there may be other approaches to address this issue (e.g., maximum percent increase per month), we strongly believes that the Commission should make the necessary rule changes to make all retail suppliers provide, a specific cents-per-kWh maximum price protection level, at their discretion, for any variable priced product offered to residential customers, and to commit to that price protection for 6 month periods. This can eliminate surprise to customers whether they are signing up for a variable-price product or they are rolling off a fixed price term product onto a variable product. Since variable products have no term, there are no termination fees, and providing a clear maximum price protection level gives customers the ability to make better budgeting, shopping and switching decisions. Such a maximum price protection level requirement will also increase competition among retail suppliers, as even "low introductory variable offers" will be subject to providing upfront notice of the maximum price at which customers could be exposed to. In our view, a price protection feature,

² The residential electric variable rate price protection does not include incremental services procured including but not limited to: green products, rewards, home services, or other non-energy related items. The residential electric variable price protection levels are the absolute highest rates pending any future regulatory or legislative changes that impose greater costs on retailers.

had it been in place leading up to the recent Polar Vortex, would have provided additional, upfront disclosure, awareness, and protections to those customers who had decided to affirmatively select or transition to a variable priced product.

B. For Variable-Priced Contracts Without Explicit Formulaic Pricing Parameters (“Non-Indexed Products”)

1. **Should EGSs be required to provide advance notice of price changes to customers?**
2. **Should the advance notice requirement be waived for minor contract price changes, within certain bounds? If so, what bounds are appropriate?**
3. **If advance notice is required, how far in advance of the meter read date should notice be provided and how can this notice be provided?**
4. **Do variable rate contracts without explicit pricing parameters provide consumers with the information needed to make informed decisions? If not, what is the remedy?**

These four questions generally focus on providing customers with appropriate advance notice of future price changes for Non-Indexed Products. Future price changes for Non-Indexed Products are not as transparent to the customer because they are calculated at the sole discretion of the EGS. These products may also contain limits on the variability of future price changes which should be taken into consideration when determining the appropriate customer disclosure that should be required.

Starting with question number one, Direct Energy would support a new standard for all retail suppliers offering variable rates: to residential customers: variable electric rates with price protection. Direct Energy believes that all retail suppliers should provide a specific cents-perkWh maximum variable rate for any residential variable electric price product and provide customers with thirty (30) days advance notice for any changes the retail supplier makes to that price protection level. This gives customers the ability to make better budgeting, shopping and

switching decisions. Given the influx of extremely high energy bills as a result of the Polar Vortex, Direct Energy believes that it has a responsibility to both our customers and the Commonwealth to take these necessary steps to help mitigate the impact of these types of unprecedented events in the future and to improve our competitive marketplace.

Direct Energy supports RESA's comments for the three remaining questions regarding advance notices of price changes, including concern over costs of such notices if required only by mail. Requirements that only permit paper mailings and require them to occur as frequently as monthly will be very costly and burdensome to EGSs.

Direct Energy supports RESA's comments to the Commission to not establish a lengthy notice period prior to implementing price changes based on today's switching timeframe – which is subject to change in the future – based on the difficulties it presents suppliers and, ultimately, the prices offered to customers. RESA suggests that a fifteen (15) day notice period to customers prior to a price increase would be reasonable, however Direct Energy supports the Commission's recommendation for a thirty (30) day notice period as it provides customers additional time to consider their options.

Direct Energy also supports RESA's comments regarding variable price transparency, and their recommendations that any requirement regarding historical pricing information: (1) be limited to Indexed Products; (2) allow EGSs flexibility in calculating this information (i.e. an average historical look of several similar variable products based on the most recent 12-months); and, (3) permit EGSs to provide the information outside the disclosure statements (i.e. a toll-free number or on the website).

IV. COMMENTS REGARDING ACCELERATED SWITCHING

Direct Energy supports the Commission's efforts to accelerate the switching timeframe and supports off-cycle switches, and agrees with the comments provided by RESA. While

Direct Energy would support working with stakeholders to ultimately move to a same-day switch model, the interim three to five calendar day target for switching is acceptable. Faster switching would permit customers to adapt quicker to changing market conditions and swiftly move to rate plans that better allow them to manage their budgets. Direct Energy cannot provide comments on the questions as posed, as the answers to those inquiries can only be answered by the respective electric utilities.

V. OTHER

A. Advanced Notice

Direct Energy supports advance notice when moving from a fixed price to a variable price contract, and a notice of the caprice protection level for the variable price once the customer moves to the post-contract term. We believe that all retail suppliers should move to price protected variable priced products for residential customers for six (6) month intervals. In the event that a retail supplier would like to adjust the cap upward, it would be required to provide thirty (30) days advance notice to the customer. Notices should be provided in a cost effective manner, including by email or posting to a website.

B. Smart Meter Deployment

As it relates to advanced metering, Direct Energy supports full smart meter deployment to all residential customers in all electric utility service territories. Smart meters enable retail suppliers like Direct Energy to offer advanced and innovative products and services. Full deployment not only fosters greater customer engagement, but also gives customers more control of their energy usage and bills. Direct Energy already offers several innovative products that use smart technology to help customers manage their energy use, which can be particularly helpful

during unpredictable weather conditions. Full smart meter deployment would enable Direct Energy and other suppliers to offer more of these types of products and services across the state.

C. Supplier Standards

Direct Energy supports enhancements that include increasing the financial fitness standards for retail suppliers, stronger enforcement against suppliers and sales representatives that violate customer protection regulations, and new measures to promote fixed price contracts. Direct Energy believes these measures would further protect all customers, enhance the shopping experience for all customers and promote the general vitality of the market.

D. Wholesale Market Improvements

Finally, although not the focus of the Commission's investigation, we believe that in addition to our proposed retail market improvements, the polar vortex event also shows the critical need to address certain wholesale market practices and the manner in which the risks related to such extreme events are allocated among market participants. Direct Energy urges the Commission to support careful investigation of PJM energy market rules to identify issues that exacerbated the recent spike in wholesale prices. Among the issues that the Commission should seek to be addressed are:

- i. *Ensure that LMP captures as much of the costs as possible needed to meet load, and to better manage (and reduce as much as possible) uplift charges.*
- ii. *Revise rules to enhance cost/causation allocation of balancing/operating reserves charges and reduce socialization of those costs.*
- iii. *Better match generator penalties for failures or deviations for non-performance with the cost imposed on load as a result of generator non-performance.*


iv. *Examine rules changes to ensure that emergency power transfer prices (from neighboring RTOs) are just and reasonable.*

We are pleased that the Commission is working with PJM and other wholesale market groups to explore the root causes of anomalous pricing and forced outages in January. Direct Energy conveys this summary of key issues to the Commission and urges it to consider raising these issues at PJM and FERC. Direct Energy is also working with FERC and PJM to explore these and other potential solutions, and hopes this joint effort with the Commission will better ensure just and reasonable wholesale power costs in the future. Direct Energy would welcome a discussion with the Commission to share its expertise and to identify opportunities to work collaboratively to achieve positive change for the benefit of Pennsylvania electric consumers.

V. CONCLUSION

Direct Energy appreciates the opportunity to provide comments regarding this important proceeding, and the Commission's continued commitment to improve customers retail experience. Direct Energy firmly believes that with greater price transparency, easier shopping tools, faster switching processes and robust smart meter deployment will enable the types of products and services that give customers both choice and control over their energy use.

Respectfully submitted,



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