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Via Electronic Filing

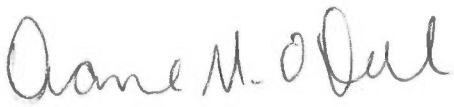
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Investigation into Default Service and PJM Interconnection, LLC. Settlement Reforms
Docket No. M-2019-3007101

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Retail Energy Supply Association's ("RESA")
Comments to the Investigation Order entered February 26, 2019, with regard to the above-
referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/lww
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | | |
|----------------------------------|---|------------|----------------|
| Investigations into Default | : | Docket No. | M-2019-3007101 |
| Service and PJM Interconnection, | : | | |
| LLC. Settlement Reforms | : | | |

**COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION
TO INVESTIGATION ORDER ENTERED FEBRUARY 26, 2019**

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Date: July 26, 2019

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I. INTRODUCTION

By Investigation Order entered February 26, 2019, the Commission sought feedback on a number of questions focused on whether changes to the current default service rate structure could be implemented to provide more meaningful information to consumers about their usage and the wholesale costs of energy to incent positive customer behaviors. The Retail Energy Supply Association (“RESA”)¹ is an association of electric generation suppliers (“EGS”) that operate in Pennsylvania and throughout the country and share the common vision that “a vibrant and sustainable competitive retail energy market is a better alternative for consumers than monopoly-protected utility regulation.”² The topic of this investigation is one that matters to RESA members because they are in the business of developing and marketing retail energy products and services that consumers desire and, therefore, purchase. The role of the default service product, which is provided by the electric distribution companies (“EDCs”), directly impacts what products and services RESA members are able to develop (due to the need for timely and relevant information from the EDC) and then market (due to the presence of the default service product and the messaging to consumers to compare EGS prices to the default service rate).

While some feedback on the specific questions asked is provided below, confining this investigation to the topics set forth in the Investigation Order alone will not result in the

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² See <https://www.resausa.org/about-us>.

meaningful, impactful changes that the Commission appears to desire here. Rather, RESA supports focusing this investigation on evolving the current structure and role of default service to better support the development of a functioning competitive retail electricity market. Doing this is the optimal way to capitalize on all the work that has already been completed regarding the retail electricity market (including smart meter deployment) while also providing consumers more meaningful access to the technological and services-related innovations that were an integral part of the Electricity Generation Customer Choice and Competition Act (“Choice Act”).³ As this Commission and stakeholders have proven many times over the twenty years since passage of the Choice Act, the multitude of details necessary to appropriately evolve today’s retail electricity market can be reasonably addressed through strong leadership from the Commission and the collaborative efforts of stakeholders. RESA looks forward to being a part of the process.

II. CONSUMERS BENEFIT FROM A DEFAULT SERVICE RATE DESIGN THAT SUPPORTS COMPETITIVE MARKET DEVELOPMENT

As the Commission evaluates changes to the current default service structure in Pennsylvania, consideration of the original purpose and to-date evolution of the default service product is instructive. The concept of default service was a foundational part of the Choice Act to ensure an orderly transition to a competitive retail electricity market from the historical monopoly market where the EDCs provided all the components of retail electricity service to retail customers, i.e. distribution, transmission, generation (also referred to as supply). In the new retail electricity marketplace, the rate for generation is no longer rate regulated by the Commission and consumers are to have the opportunity to choose to receive generation from a

³ 66 Pa. C.S. §§ 2801-2812.

competitive generation supplier. The statute ensures that no consumer will be without access to generation service through the concept of “default service” which is available to permit customers to continue to receive electric services in the event the customer’s chosen EGS does not provide service or the customer does not choose an alternative electric generation supplier.⁴ The statute sets forth processes by which default service is to be provided through a Commission approved process, but the statute does not mandate that the EDC is the only generation supplier that may be authorized to provide default service.⁵ In Pennsylvania, today, however, the EDC continues to be the exclusive provider of default service.

This is a critical point to bear in mind as the Commission moves forward with this investigation because the EDC’s “dual” role as monopoly distribution provider and default service provider implicates many competitive market concerns which the Commission is statutorily required to manage and, if necessary, actively fix. For example, if the EDC – entitled to full cost recovery in both its roles as the distribution provider and the default service provider – elects to pass on costs of providing default service through its distribution ratepayers, then the default service rate that customers are required to pay is not accurately reflecting true costs. This matters from a competitive market standpoint where, as in Pennsylvania today, consumers are encouraged to shop by “beating” the default service rate (known as the “Price-to-Compare” or PTC) but competitive generation suppliers are not able to similarly pass on costs of generation service through another mechanism. The Choice Act sought to eliminate such disparity by: (1)

⁴ 66 Pa. C.S. § 2807(e)(3.1)

⁵ EDCs were statutorily required to serve in the default service role, they were released of this statutory obligation following the expiration of generation rate caps. 66 Pa. C.S. § 2807(e)(1). The Choice Act specifically permits an entity other than the EDC to be approved to offer default service and the Commission’s regulations set forth a process for such change to occur. 66 Pa.C.S. §2803; 52 Pa. Code §54.183(c).

permitting the Commission to authorize a competitive supplier to be the default service provider; and, (2) authorizing full cost recovery for the default service provider.

As the Legislature recognized in 1996 and is still true today, consumers benefit from a functioning competitive market. In such market, EGSs – who are all similarly situated from the perspective of cost recovery – have an equal and fair opportunity to compete with one another to serve customers. To be successful, each EGS must constantly develop a variety of products and services that consumers – who have a choice – will want to purchase. The greater the number of EGSs in such market, the more technological and services-related innovation available in that market which is consistent with the purposes and intent of policymakers and the legislature at the time the Choice Act was adopted. The goal of the Legislature to achieve such result and to give the Commission the mandate to redress unfair competitive advantages flowing to the EDC by virtue of its role as the distribution provider is clear from numerous provisions in the Choice Act:

- 66 Pa. C.S. § 2802(3): “Because of advances in electric generation technology and Federal initiatives to encourage greater competition in the wholesale electric market, it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market...”
- 66 Pa. C.S. § 2802(5): “Competitive market forces are more effective than economic regulation in controlling the cost of generating electricity.”
- 66 Pa. C.S. § 2802(7): “This Commonwealth must begin the transition from regulation to greater competition in the electricity generation market to benefit all classes of customers and to protect this Commonwealth’s ability to compete in the national and international marketplace for industry and jobs.”
- 66 Pa. C.S. § 2802(12): “The purpose of this chapter is to modify existing legislation and regulations and to establish standards and procedures in order to create direct access by retail customers to the competitive market for the generation of electricity. . .”
- 66 Pa. C.S. § 2802(13): “Under current law and regulation there exists some competition in the wholesale market . . . but the generation, transmission, distribution and retail sale of electricity is provided generally by the public utilities under bundled rate regulated by the commission. The procedures established under this chapter provide for a fair and orderly transition from the

current regulated structure to a structure under which retail customers will have direct access to a competitive market for the generation and sale or purchase of electricity.”

- 66 Pa. C.S. § 2802(14): “This chapter requires electricity utilities to unbundle their rate and services and to provide open access over their transmission and distribution systems to allow competitive suppliers to generate and sell electricity directly to consumers in this Commonwealth.”
- 66 Pa. C.S. § 2804(2): the Commission “shall allow customers to choose among EGSs in a competitive generation market through direct access... Customers should be able to choose among alternatives such as firm and interruptible service, flexible pricing and alternate generation sources, including reasonable and fair opportunities to self-generate and interconnect. These alternatives may be provided by different [EGSs].”
- 66 Pa. C.S. § 2806(a) – “all customers . . . shall have the opportunity to purchase electricity from their choice of EGS. The ultimate choice of the EGS is to rest with consumer.” “The generation of electricity shall no longer be regulated as a public utility service.”

For all these reasons, the Commission’s investigation needs to consider how changes to the current default service structure will impact the competitive market and whether more substantial reforms should be investigated to have a more significant positive impact on achieving the stated goals of the Commission through this proceeding.

A. Capitalizing on Smart Meter Investment and Evolving Default Service Product to Include TOU Structures

In its Investigation Order, the Commission asks several questions related to “evolving” the default service product to include time-of-use (“TOU”) structures.⁶ While RESA understands the purpose of these questions is in the context of the default service product, as explained previously, “evolving” the default service product (currently provided by the EDCs) in an effort to positively influence consumer behaviors is not an appropriate role for default service. As supported by the language of the Choice Act, default service is intended to be there as a

⁶ Investigation Order at 5-7.

“back-up” for customers. Where, as in Pennsylvania today, the default service is provided by the EDC and the Commission is focused on designing the default service product as another “competitive supply product” in the market, such outcome runs afoul of the Choice Act which prohibits giving EDCs such an unfair competitive advantage relative to the EGSs.

Moreover, such action is not necessary to achieve the Commission’s intent to empower consumers to make more informed choices about their electricity usage because accomplishing such outcomes is squarely within the business purposes of the EGSs. RESA members fully support customer empowerment and the most significant way to drive to such empowerment is by giving consumers the information they need to make the decisions that best suit their individual preferences and desires. The deployment of smart meters and other smart grid technology is an integral part of satisfying consumers’ desires for empowerment. Because of the work that has been done in Pennsylvania to deploy smart meters and make interval level data available to EGSs, EGSs have the information necessary to develop specialized products such as free electricity on weekends or evenings, demand response solutions which can help customers reduce usage, as well as prepaid electricity plans coupled with real-time, daily alerts to customers regarding their actual usage (giving consumers the information necessary to take proactive measures regarding future consumption). Customers can also easily access their interval level data through their computer or smart phone which provides them insight on when and where they use energy.

Additionally, because competitive electric suppliers must offer more than the “lowest” price if they want to attract and retain customers, most competitive electric suppliers in the market today have affiliated or partnered with service and technology companies that broaden and deepen the consumer value proposition. For example, some electric suppliers are working

with major airlines to offer frequent flyer miles, as well as other types of rewards for customers including bundling electricity with cable and Internet service. Other suppliers provide residential customers with digital games and contests that encourage energy efficiency and can educate children about energy usage. Still others offer an array of smart thermostats, smart home automation, energy efficiency products, and various applications to automate home energy and appliances.

Thus, RESA members do not support “evolving” the current default service structure (which is exclusively provided by the EDC) to offer consumers TOU products. Rather, RESA recommends that this investigation focus on how to further incentivize EGSs to bring such products to market. Giving the EDC another competitive advantage through the provision of developing “competitive default service” products that compete with EGSs’ competitive products is not going to positively incent EGSs to also develop these products. Consumers do not benefit in the end because they will only have the EDC’s TOU product from which to choose.

Also worth noting is that the appropriate design for TOU programs has been addressed in the context of many different Commission proceedings including individual EDC default service proceedings, individual EDC smart meter proceedings, individual EDC TOU proceedings and – more generically – as part of the Commission’s statewide investigation of Pennsylvania’s retail electricity markets (“RMI”).⁷ In these proceedings, RESA has consistently taken the position that the competitive market should be relied upon to provide generation products to include TOU products. Requiring the EDC to provide generation products rather than relying on the

⁷ *Investigation of Pennsylvania’s Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans*, Docket No. L-2011-2237952, Final Order entered December 16, 2011 at 47-48.

competitive market presents serious obstacles to fostering the development of a robustly competitive retail electric market in Pennsylvania consistent with the policy of the Commonwealth.⁸ This is because EDC provided generation products provided under the guise of “default service” further entrenches the utility as a generation services provider making it more difficult for competition to develop by crowding out the incentive of EGSs to offer these products.⁹ One of the major benefits of competition is that it encourages the development of innovative products and services that add value to customers beyond the electric commodity. Consumers are negatively impacted by the lack of competitive offerings in the marketplace because they are unable to realize the full potential of a truly based competitive market which can provide value specifically tailored to the consumer’s individual needs and also enable them to use electricity more efficiently, reduce energy costs and enhance electric reliability on the grid.

Unfortunately for consumers, the EDCs have tried various market designs and structures to accomplish a true TOU product but these products have largely not been adopted by consumers. Rather than continuing down this path, RESA supports focusing in this proceeding on how to ensure that EGSs have immediate and easy access to hourly load data to support their efforts to develop creative product structures. Doing so will provide a much more significant benefit to consumers than attempting to use regulatory concepts to design TOU products to be offered by the EDC under the guise of a “default service” product.

⁸ 66 Pa. C.S. § 2802(5); 66 Pa. C.S. § 2806(a).

⁹ *Investigation of Pennsylvania’s Retail Electric Market*, Docket No. I-2011-2237952, Comments of the Retail Energy Supply Association dated June 3, 2011 at 14-17.