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September 11, 2024

Via Email Only

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Petition of the Boroughs of Carlisle, Hatboro, Lansdowne, Media, Narberth, State College, and Swarthmore for a Declaratory Order Regarding the Implementation of Community Choice Aggregation – Docket No. P-2024-3049623

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Retail Energy Supply Association's ("RESA") Prehearing Memorandum 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 "Deanne M. O'Dell".

Deanne M. O'Dell

DMO/lww

Enclosure

cc: Hon. Mary D. Long w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of RESA's Prehearing Memorandum upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Dated: September 11, 2024

Deanne M. O'Dell, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of the Boroughs of Carlisle,	:	
Hatboro, Lansdowne, Media, Narberth,	:	Docket Nos. P-2024-3049623
State College, and Swarthmore for a	:	
Declaratory Order regarding the	:	
Implementation of Community Choice	:	
Aggregation		

**PREHEARING MEMORANDUM
OF RETAIL ENERGY SUPPLY ASSOCIATION**

Pursuant to 52 Pa. Code §§ 5.72-5.75, the Prehearing Conference Order dated August 21, 2024, and subject to the granting of its Petition to Intervene filed on August 5, 2024, the Retail Energy Supply Association (“RESA”)¹ submits this Prehearing Memorandum. A Prehearing Conference is scheduled for Friday, September 13, 2024.

I. BACKGROUND

On June 20, 2024, the above captioned Petition for Declaratory Order was filed requesting authorization from the Commission to implement a Community Choice Aggregation (“CCA”) Program within the territories of the named Boroughs. According to the Petition, the CCA Program would enroll all default service customers² within each borough on an opt-out basis to receive “low, stable prices for renewable energy” from licensed electric generation suppliers (“EGSs”) chosen through a Request for Proposal (“RFP”) process.³ The contracts

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 Petition at 3, paragraph 6.

³ Petition at 42, paragraph 77-78.

entered into between the retail end users and the selected EGSs would be “subject to the supervision and final approval of the Borough” as a way to provide “the Boroughs’ assurance of fair contract terms.”⁴ The Boroughs would engage a “CCA Administrator” to “advise [the Borough] and act as its agent in connection with the CCA Program”⁵ by performing “outreach and education of eligible customers, management of bidding and contracting processes, increasing renewable energy in supply contracts, supporting the EGS in enrollment and billing processes and customer service for participants, and requests to EDC for information.”⁶ The CCA Administrator would be funded by retail end users through a surcharge added to the EGS electricity power charge.⁷ The Petition specifically requested the Commission to issue an order declaring that neither the Borough nor the CCA Administrator are required to obtain an EGS license from the Commission.⁸

Pursuant to public notice published in the Pennsylvania Bulletin on July 6, 2024,⁹ RESA filed a Petition to Intervene and Answer on August 5, 2024. In addition to requesting that the Commission grant its request to intervene in the proceeding, RESA recommended that the Commission deny the Petition for Declaratory Order and focus on supporting the ability of the competitive market to deliver renewable energy. Alternatively, RESA recommended that any further investigation of the Petition for Declaratory Order include consideration of other pathways to address the current stagnation of residential customer shopping as well as the

⁴ Petition at 22 and 24, paragraphs 46 and 49.

⁵ Petition at 6, paragraph 14.

⁶ Petition at 16, paragraph 32.

⁷ Petition at 24, paragraph 48.

⁸ Petition at 48.

⁹ 52 Pa.B. 3859.

significant technical and operational issues likely to result if unlicensed entities are permitted to run and implement the proposed program.

Pursuant to Prehearing Conference Order dated August 21, 2024, a Prehearing Conference was scheduled for September 13, 2024 and Prehearing Conference Memorandum were directed to be filed on or before September 11, 2024.

On September 3, 2024, an Amendment to Petition for Declaratory Order was filed by Petitioners. In the Amended Petition, Petitioners make various adjustments and revisions to the original Petition. Specifically, they withdraw their original request the CCA Administrator does not need an EGS license; and, ask the Commission to declare that it does not oppose the adoption of the CCA program on any other basis in the Public Utility Code or other statutes in the Commission's jurisdiction.¹⁰ The Amended Petition also revises type of additional customer information to be requested as part of the aggregation and clarifies that the Boroughs will not have access to customer information nor be involved in billing or default management.¹¹ Finally, the Amended Petition adds the Borough of Camp Hill as a Petitioner.¹²

II. ISSUES

As explained in its Petition to Intervene, many RESA members are licensed to provide electric supply to retail customers in the EDC service territories serving the areas of the Boroughs joined in the request. RESA members will be specifically and substantially affected by the outcome of this proceeding because the CCA Program would operate to serve all the default service customers in a particular geographic area, fundamentally altering the current state

¹⁰ Amended Petition at 3-4, paragraphs 5 and 7.

¹¹ Amended Petition at 4-5, paragraphs 9 and 10.

¹² Amended Petition at 5, paragraph 11.

of the competitive market in which all EGSs are on equal footing regarding their opportunity to serve retail customers. There are no Commission approved aggregation programs in Pennsylvania today guaranteeing any particular EGS residential default service customers. Permitting the CCA Program to go forward by issuing the requested declaratory order would have a significant impact on EGS operations in the affected areas.

While RESA members are continuing to evaluate the Petition and the recently Amended Petition, below is a list of preliminary issues of concern to RESA.

1. Whether Petitioners have met their burden of proof regarding the need to implement the proposed aggregation program to include a showing that existing market structures are insufficient to address concerns;
2. To the extent the current market structure is deemed insufficient to address any proven concerns, evaluation of whether other structural changes consistent with the Electricity Generation Customer Choice and Competition Act (“Competition Act”)¹³ may be implemented to incentivize greater EGS participation in providing competitive supply options;
3. Evaluation of the structure of the aggregation program to ensure it is consistent with the Competition Act and all Commission regulatory requirements enacted thereunder.

RESA reserves the right to raise other issues identified through its continued review and analysis of the requests of Petitioners as well as any of the testimony and positions developed by other parties in the proceeding.

III. PROCEDURAL SCHEDULE

RESA will cooperate with the parties and presiding officer to develop a reasonable procedural schedule.

¹³ 66 Pa. C.S. §§ 2801 *et seq.*

IV. HEARINGS

At this time, RESA continues to evaluate the issues in this proceeding and is unable to estimate the amount of hearing time (if any) that may be needed.

V. WITNESSES

At this time, RESA is still considering whether or not to present testimony in this matter. RESA reserves the right to present a witness, as may be necessary, depending on the course of the proceeding. If RESA decides to present testimony, RESA will provide reasonable notice to the Administrative Law Judge, as well as the parties. RESA also reserves its right to add or change the identity of its witnesses at any time, upon appropriate notice the ALJ and the parties.

VI. POSSIBILITY OF SETTLEMENT

RESA is willing to participate in settlement discussions with the parties to narrow the issues in this matter.

VII. SERVICE OF DOCUMENTS

RESA's attorneys in this matter are:

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RESA prefers that documents be served electronically to the above email address and agrees to receive service of documents electronically in this proceeding. To the extent that materials are not available electronically, RESA requests that only one hard copy of documents, if any, be served upon Deanne O'Dell at the above mailing address.

Respectfully submitted,



Deanne M. O'Dell, Esquire
(PA Atty I.D. 81064)

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Dated: September 11, 2024

Attorneys for Retail Energy Supply Association