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April 27, 2005

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
The Commonwealth Keystone Building
400 North Street, 2nd Floor
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VIA HAND DELIVERY

Re: Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. § 2807(e)(2); Docket No. L-00040169

Dear Secretary McNulty:

Enclosed are the original and fifteen (15) copies of the Comments of Citizens' Electric Company and Wellsboro Electric Company in the above-referenced proceeding.

Copies of the Comments are being served on the parties indicated on the attached Certificate of Service. If you have any questions, please contact us at your convenience. Please date-stamp the extra copy of the Comments and this letter, and return them to our messenger for our files. Thank you.

Very truly yours,

MCNEES WALLACE & NURICK LLC

By *Pamela C. Polacek*
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Counsel to Citizens' Electric Company of
Lewisburg, Inc., and Wellsboro Electric Company

PCP/smd
Enclosures

c: Mr. Robert Bennett, Bureau of Fixed Utility Services (via hand delivery)
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I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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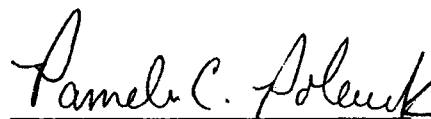
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Dated this 27th day of April, 2005 in Harrisburg, Pennsylvania

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**RULEMAKING RE ELECTRIC :
DISTRIBUTION COMPANIES' : DOCKET NO. L-00040169
OBLIGATION TO SERVE RETAIL :
CUSTOMERS AT THE CONCLUSION :
OF THE TRANSITION PERIOD PURSUANT :
TO 66 PA C.S. § 2807(e)(2) :**

**COMMENTS OF CITIZENS' ELECTRIC COMPANY
AND WELLSBORO ELECTRIC COMPANY**

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Dated: April 27, 2005

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I. INTRODUCTION

On December 16, 2004, the Pennsylvania Public Utility Commission ("PUC" or "Commission") entered a Proposed Rulemaking Order formally commencing the Commission's process to define the obligations of a Provider of Last Resort ("POLR") or Default Service Provider ("DSP"), as the Commission now prefers to refer to the function, to serve retail customers at the conclusion of each Electric Distribution Company's ("EDC") transition period. Rulemaking re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. § 2807(e)(2), Docket No. L-00040169, Proposed Rulemaking Order, slip opinion issued Dec. 16, 2004, published in Pennsylvania Bulletin at 35 Pa. Bull. 1421 (Feb. 26, 2005). Under the Electricity Generation Customer Choice and Competition Act ("Competition Act"), an EDC, or an alternative DSP approved by the Commission, has a duty as the POLR for customers who have either not chosen an alternative Electric Generation Supplier ("EGS") or who have contracted for electric energy that was not delivered. See 66 Pa. C.S. § 2807(e). The Competition Act provides the Commission with several directives regarding the promulgation of regulations that must define the obligations of the EDC/DSP that will exist at the end of the EDC's stranded cost recovery period. The DSP must acquire electric energy at prevailing market prices to serve customers and fully recover all reasonable costs. The Proposed Rulemaking Order includes a discussion of the Commission's interpretation of the Competition Act and a series of proposed amendments to the regulations in 52 Pa. Code to implement that interpretation.

Citizens' Electric Company of Lewisburg, Inc. ("Citizens"), and Wellsboro Electric Company ("Wellsboro") (collectively, the "Companies") appreciate this opportunity to provide comments regarding the Commission's proposed regulations. Citizens' and Wellsboro are two of the smallest jurisdictional EDCs in Pennsylvania. The majority of the Citizens' stock and all of the Wellsboro stock is owned by a holding company, C&T Enterprises, Inc. ("C&T"). C&T is jointly owned by Tri-County Rural Electric Cooperative and Claverack Rural Electric Cooperative.

Citizens' provides service to approximately 6,500 customers in Lewisburg and the surrounding area. The majority of Citizens' customers are residential customers (5,438 accounts), while Citizens' also serves 1,043 commercial accounts, 37 industrial accounts and 16 lighting accounts. Citizens' provides distribution and POLR service to its customers using 17 employees as of January 31, 2005.¹ Wellsboro is of similar size, serving a total of approximately 5,900 accounts, 4820 of which are residential, 1035 of which are commercial, 14 of which are industrial, and 5 of which are resale or lighting. Wellsboro employs just 16 employees.

The rate caps applicable under the Competition Act for the Wellsboro and Citizens' customers expired on January 2, 1999, and January 31, 2002, respectively. As a result, Wellsboro and Citizens' have been operating in the "post transition period" for a number of years. The abbreviated rate cap period was a result of the Companies' historic reliance on wholesale purchases to obtain the generation supply to serve customers, rather than owning generation facilities. Both prior to and after the rate unbundling accomplished in the Competition Act, the Companies have obtained energy via a series of

¹ Citizens' and Wellsboro have access to various "shared services" employees under a Management Services Agreement with their parent corporation, C&T Enterprises, Inc. ("C&T").

fixed price, multi-year wholesale full requirements contracts. When restructuring began in 1999, the Companies' wholesale contracts predated adoption of the Competition Act. The POLR prices ultimately charged to customers were the charges in those contracts, which were unbundled from the Companies' rates during the restructuring proceedings (including the impact of the Energy Cost Rate that was in effect as of January 1, 1997).

The Companies recognized that their "post transition periods" would commence before the PUC promulgated final POLR regulations. In anticipation of the expiration of Citizens' pre-restructuring contract with PPL Electric Utilities Corporation on January 31, 2002, Citizens' initiated a Request For Proposals ("RFP") process to obtain a replacement wholesale supplier for a fixed-rate, multiple year full requirements contract. As a result of that RFP, Reliant Energy Services, Inc. ("Reliant"), submitted the lowest overall bid. The Reliant contract includes a fixed price for energy, capacity and ancillary services with a passthrough of the PJM transmission charges. Once the replacement wholesale contract with Reliant was signed, Citizens' submitted a filing to the Commission to implement a Generation Supply Service Rate ("GSSR") Rider to transform that wholesale contract into a POLR rate and service offering that meets the requirements of Section 2807(e)(3) of the Competition Act. After Citizens' engaged in a series of discussions with interested stakeholders regarding the design of the POLR offering, the Commission approved the GSSR Rider that is currently in the Citizens' tariff and attached to these comments at Attachment A as a just, reasonable and appropriate interim mechanism until the Commission adopted final POLR regulations that will apply on a statewide basis. In 2003, Citizens' conducted another RFP that resulted in the extension of the Reliant arrangement, with some modifications, through December 31, 2007. See Petition of

Citizens' Electric Company of Lewisburg, Inc., to Modify Electric Restructuring Settlement and Proposed Provider of Last Resort Supply Offering, Docket No. R-00016999 (approval of GSSR and POLR plan); Citizens Electric Company Generation Supply Services Rate Effective March 1, 2004, Docket No. R-00049161 (approval of new GSSR and extension of Reliant contract).

Subsequently, when facing the prospect of entering into a new wholesale supply agreement to take effect on January 1, 2003, Wellsboro filed a similar GSSR Rider with the Commission for approval. Wellsboro was at the early stages of conducting a competitive process to find a replacement supplier. At the request of interested parties, Wellsboro suspended the effectiveness of the filing pending negotiation of the final contract and eliminated various aspects of the proposal that ultimately were unnecessary under the wholesale contract that it signed with Dominion Energy Marketing, Inc. ("DEMI"). The DEMI contract is a full requirements, fixed price rate that includes energy and capacity, while PJM transmission and ancillary service charges are a passthrough. The contract between DEMI and Wellsboro will be in effect through December 31, 2007. A copy of the currently effective GSSR Rider for Wellsboro is attached at Attachment B. See Pennsylvania Public Utility Commission v. Wellsboro Electric Company, Docket No. R-00027909 (approving GSSR rate reflecting DEMI contract); Pennsylvania Public Utility Commission v. Wellsboro Electric Company, Docket No. R-0002730 (approving POLR plan).

Although both POLR plans were approved as "interim" measures applicable until the Commission issues final POLR regulations, Citizens' and Wellsboro respectfully submit that their approved plans constitute a reasonable and appropriate method for

smaller EDCs to comply with the requirements of Section 2807(e)(3) of the Competition Act.² Citizens' and Wellsboro continually strive to provide high quality service at reasonable rates to their customers and will faithfully attempt to implement the POLR structure and regulations adopted by the Commission; however, both companies believe that the current GSSR mechanisms are working for customers in their service territories and are otherwise in the public interest.

There are many distinguishing factors between the Companies and the majority of the other EDCs in Pennsylvania that could justify different POLR approaches under Section 2807(e)(3). These differences include the number of customers served, the number of employees, the size of the peak loads (i.e., both Citizens' and Wellsboro have peak demands that are smaller than the standard wholesale 50 MW tranche), and the tolerance of smaller EDCs to the financial risks that may be inherent in certain POLR designs. These operational differences may support variations in the manner in which POLR services are implemented and administered in the territories of the Pennsylvania EDCs.

Citizens' and Wellsboro appreciate the Commission's inclusion in the proposed regulations of an explicit acknowledgement that DSPs may petition for a waiver of provisions in the final regulations. See Proposed Regulation 54.188(g). As such, the Companies recognize that the Commission may prefer to address many of the concerns raised in these comments through the waiver process; however, more explicit acknowledgment of the unique circumstances of smaller EDCs would enhance the

² Both Companies have included distribution-related costs in their GSSR calculations. As explained in Section II.E.2 of these Comments, the Companies do not believe that this complies with Section 2807(e)(3) of the Competition Act. As a result, to the extent the Commission authorizes the Companies to continue the current POLR mechanisms as an interim or permanent DSP plan, Wellsboro and Citizens' request that all distribution-related costs be removed from the GSSR.

Companies' ability to deal with financial institutions and the potential suppliers for the wholesale product. Although the Citizens' and Wellsboro are confident that the Commission will appropriately address the unique needs of smaller EDCs, other entities such as banks and wholesale suppliers that are not as familiar with the PUC may view any uncertainty regarding the Companies' ability to obtain such waivers as a reason to impose additional credit requirements and/or to refuse supply or funding. To the extent the Commission chooses to forego modifying the regulations to address the specific comments raised by Citizens' and Wellsboro, the Companies respectfully request an explicit acknowledgement in the Final Rulemaking Order that the Companies' waiver requests will be judiciously and thoroughly reviewed based on what is important for the reliable provision of service and what is otherwise in the public interest, given the unique situation in the Companies' service territories. The Citizens' and Wellsboro also suggest the addition of a new Section 54.188(h) to the regulations, stating:

(h) As part of the implementation plan, any default service provider serving a territory with less than 50,000 retail customers can seek a waiver of any part of this subchapter. The Commission will grant such waivers to the extent necessary to reduce the regulatory, financial or technical burden on the default service provider or to the extent otherwise in the public interest.

Citizens' and Wellsboro include 50,000 customers as the threshold for the waiver threshold because this corresponds with the standard in the Federal Telecommunications Act for the designation of "rural" telephone companies. See 47 U.S.C. § 153 (definition of "Rural Telephone Company"). An appropriately structured intrastate distribution revenue threshold could also be adopted as the basis for determining eligibility for this waiver.

II. COMMENTS

Citizens' and Wellsboro recognize that the Commission will be provided with a multitude of comments regarding the proposed regulations. For the Commission's convenience, the Companies will present their comments in accordance with the topics under which the issues appear in the Proposed Rulemaking Order and proposed regulations. This does not necessarily reflect the order of importance of these issues to the Companies.

A. Proposed Regulation 54.182: Definitions—"Fixed Rate Option".

Section 54.182 of the proposed regulations provides the following definition of "fixed rate option": "A default service price that is set in advance for the entire term of the default service implementation plan that may include seasonal differences." See Proposed Regulation 54.182. Based on this definition, it appears that the Commission intends for the duration of the fixed price option to coincide with the duration of the implementation plans submitted by the DSPs.

For the optimum utilization of the Companies' and the Commission's resources, the submission and approval of an implementation plan should be a one-time event occurring after the promulgation of final regulations (unless the Companies or another party seeks to change the implementation plan approved in that proceeding). The implementation plan should include competitive solicitation processes for multiple-year wholesale contracts. The fixed rate charged to retail customer should be permitted to change annually (or more often) based on the winning bid in the competitive solicitation process or another mechanism such as an index provision in the wholesale contract that modifies the wholesale price once per year (or more often) based on movements in the

wholesale markets relative to wholesale market conditions in existence when the original bid was approved. The DSP's implementation plan should include information regarding wholesale contract duration and any price adjustments. This will enable the retail rate to reflect prevailing market conditions without requiring smaller EDCs to undertake the process to file new implementation plans when obtaining new competitive wholesale offers.

To accommodate this recommendation, the definition of "fixed rate option" should be revised to read: "Fixed rate option-A default service price or prices that are set in advance for terms established in the default service implementation plan and may include seasonal or other differences."

B. Proposed Regulation 54.183: Default Service Provider – Certification of Alternative DSP.

Section 2807(e)(3) contemplates that the Commission may approve an alternative DSP to provide POLR service. See 66 Pa. C.S. § 2807(e)(3). As the proposed regulations recognize, approving an alternative DSP is a very serious issue. If an alternative DSP is certified, then the incumbent EDC must be totally relieved of responsibility for the POLR function. The Commission should define the ongoing role, if any, of the EDC if the alternative DSP is unable to perform.

C. Proposed Regulation 54.184: Default Service Implementation Plans and Terms of Service.

1. *Citizens' and Wellsboro Support the Commission's Decision to Allow Individual Procurement Processes.*

Some of the states surrounding Pennsylvania have decided to pursue statewide procurement processes to obtain the wholesale supply for DSPs. In the Proposed

Rulemaking Order, the Commission notes that it is not requiring a statewide approach at this time. Proposed Rulemaking Order, 35 Pa. Bull. at 1424, slip op. at 10.

Citizens' and Wellsboro support the Commission's tentative decision to allow individual procurement processes for the wholesale supply to serve default customers. In addition to the reasons set forth in the Comments filed by the Energy Association of Pennsylvania (which the Companies support), Pennsylvania is unique in comparison to New Jersey and Maryland due to the existence of small utilities in Pennsylvania. As previously discussed, the peak loads of Citizens' and Wellsboro are smaller than the standard 50 MW wholesale tranche used in statewide procurement auctions for New Jersey and Maryland and the wholesale tranche used in the Duquesne Light Company RFP for the supply to serve its larger customers. Authorizing DSPs to submit individual procurement plans, rather than mandating a statewide approach, will avoid the necessity of addressing the potentially difficult issues of whether and how to include small utilities in the statewide auction or RFP process.

2. Citizens' and Wellsboro's POLR Plans Extend Through December 31, 2007.

The Proposed Rulemaking Order recognizes that some EDCs have been and will continue to be operating under interim POLR plans until the Commission finalizes the POLR regulations. Proposed Rulemaking Order, 35 Pa. Bull. at 1424, slip op. at 11. The Commission states that it will allow the approved plans to continue through their expiration dates and will consider the approval of additional interim plans pending finalization of the POLR regulations. Citizens' and Wellsboro support allowing current and extended interim plans to continue.

Footnote 2 of the Proposed Rulemaking Order indicates that Citizens' POLR plan expires on December 31, 2004, and that Wellsboro's POLR plan has no effective date. As previously discussed, however, both Citizens' and Wellsboro are parties to full-requirements wholesale contracts that expire on December 31, 2007. Because the POLR mechanisms in the Companies' tariffs are designed based on the structure of those contracts, the most logical expiration date for the "current" Citizens' and Wellsboro POLR plans is December 31, 2007. The Companies request that the Commission's Final Rulemaking Order recognize December 31, 2007, as the expiration date for their current plans.

In addition, as set forth below, due to the potential timeline for issuing final regulations and due to the precedential nature of the initial plans to be approved by the Commission, Wellsboro and Citizens' will consider requesting that the Commission extend their current interim POLR provisions in their tariffs (not necessarily under the current wholesale contracts) to enable the Commission to adjudicate the implementation plans for one or more of the "major" EDCs. This is discussed in more detail below.

3. *The Timeline for Implementation Plan Submission Should Not Require Citizens' and Wellsboro to File before the Major EDCs.*

The Proposed Regulations state that the DSP must file a proposed implementation plan at least fifteen months prior to the expiration of the currently effective default service plan. See Proposed Regulation 54.185(a). Citizens' and Wellsboro have several concerns with this process.

First, as discussed above, the Companies' urge the Commission to clarify that EDCs can file implementation plans that will continue indefinitely, but include periodic processes to obtain competitive wholesale supply. Unless the final regulations or the

Commission's policy statements are altered, the initial implementation plans approved after promulgation of the final POLR regulations are presumed to continue to be lawful on an indefinite basis. This will result in the most efficient allocation of the Commission's resources.

Second, because of the extended duration of the larger EDCs' stranded cost recovery periods, the Commission's current proposed regulations may result in smaller EDCs such as Citizens' and Wellsboro being among the first companies to address the important and precedent-setting issues raised in the regulations. If the Commission adopts December 31, 2007, as the end date for the Companies' current plans, then Citizens' and Wellsboro will file the implementation plans on or before September 30, 2006. This is the same timeline as Duquesne Light Company. None of the other major EDCs will be filing implementation plans for at least another year. One of the issues that must be addressed in the implementation plan if the customer charge remains as proposed by the Commission is the appropriate risk or return component for the DSP. See Proposed Regulation 54.187(a)(2)(ii). This decision undoubtedly will be a controversial issue with the parties that participate in the approval process for the implementation plan. The potential precedent that may be set for larger EDCs may result in more intense litigation of the implementation plan proceedings for the smaller EDCs that will file first under the Commission's schedule. In addition, the risks to a smaller EDC may be different than the risks to a larger EDC. Clearly, it is not in the best interest of the Commission or the Commonwealth to have smaller EDCs setting precedent for the larger EDCs related to the implementation plans.

To avoid this result, the Companies suggest that the Commission extend their current plans through December 31, 2010. This will provide the Commission with the opportunity to address the important POLR issues first with the larger EDCs. Furthermore, this will provide Citizens' and Wellsboro with certainty regarding the process that they will undertake during 2007 to procure wholesale contracts for service effective January 1, 2008.

D. Proposed Regulation 54.186: Default Service Supply Procurement.

In total, Citizens' and Wellsboro have conducted three competitive procurement processes since adoption of the Competition Act. Each of those processes has resulted in a wholesale contract that was approved by the Commission for flow-through to retail customers through the POLR generation rates. As a result of these procurement processes, the Companies have developed unique insight and experience into conducting a default service procurement process for smaller EDCs. Citizens' and Wellsboro offer the following suggestions regarding the proposed regulations on this topic.

1. The Information Provided to Bidders Should Reflect the Unique Situation for Each DSP.

The Commission's proposed regulations contain specific information that must be provided to potential bidders, including the bidding schedule, bid evaluation criteria, hourly customer usage, capacity peak load contributions by rate schedule and customer size distribution by rate schedule. See Proposed Regulation 54.186(b)(2). Smaller EDCs like Citizens' and Wellsboro do not have the level of detailed information that has been suggested. For example, smaller companies may not have capacity peak load contributions by rate schedule or may not be able to produce customer size distributions for all rate schedules. In addition, even though not required by the proposed regulations

the smaller EDCs may have alternative information that is very important to potential suppliers on topics such as transmission losses, meter configurations and non-tariffed transmission charges that are imposed on supply for their service territories.

As a result, the Companies urge the Commission to include flexibility in the proposed regulations regarding the information provided to potential bidders. This could be accomplished through the following modifications to the proposed regulations:

Section 54.186(b)(2) A default service provider's proposed competitive procurement process must include, if available:

* * *

(viii) Other relevant information as specified in the implementation plan.

Alternatively, the Commission could add the new Section 54.188(h) discussed earlier recognizing that the requirements for smaller EDCs will be based on the final regulations, but that any EDC with less than 50,000 customers can seek in the implementation plan appropriate changes to the otherwise applicable regulations to reduce the administrative, regulatory, financial or technical burdens that would be imposed under the regulations.

2. *Third Party Monitoring is Only Necessary for DSPs that have Affiliates Competing in the Wholesale Electric Market.*

The proposed regulations contemplate that the Commission may require DSPs to engage a third party to monitor the competitive procurement process. See Proposed Regulation 54.186(d). Citizens' and Wellsboro appreciate the need to ensure that the competitive procurement process is not conducted in a manner that provides an unnecessary or inappropriate advantage to affiliates of the DSP; however, because neither Citizens' nor Wellsboro has an affiliate that would compete in the competitive wholesale procurement process, the Companies question to necessity of employing a third party to monitor their procurement processes. The Companies anticipate that the Commission

will approve the implementation plan, which will provide significant information regarding the bidding schedule, procedures and evaluation criteria. At the conclusion of the competitive procurement process, the Companies intend to certify to the Commission that those requirements were followed and provide sufficient information for the Commission to determine that the appropriate bid was selected. Ratepayers should not be required to pay for additional assurances through third party monitoring unless the DSP has an affiliate that competes in the wholesale supply market.

3. *The Regulations Should Specify a Maximum Review Period for Competitive Procurement Process Verification.*

The proposed regulations include a process for the Commission to review the acquisition of wholesale generation supply and verify that the DSP complied with its implementation plan. See Proposed Regulation 54.186(f). The regulations provide that the review period may not be less than three business days. Id. at 54.186(f)(2). Citizens' and Wellsboro suggest that the regulations also specify a maximum review period of five business days. This will provide additional certainty to wholesale bidders regarding the time that may elapse between when the RFP results are "finalized" by the DSP and the subsequent approval by the PUC.

4. *The Commission Should Establish a 60-Day Confidentiality Period for the Winning Bid(s) in the Competitive Procurement Process.*

The proposed regulations state that the bids submitted by a supplier in the competitive procurement process "shall be treated as confidential through the expiration date identified in the confidentiality agreement" approved in the DSP's implementation plan. Proposed Regulation 54.186(h). Citizens' and Wellsboro acknowledge that wholesale suppliers may desire that the bids be kept confidential for a period of time (to

allow the supplier to appropriately arrange for the wholesale products related to the bid); however, the period for confidentiality of the wholesale bids should not be tied to the period for confidentiality of other information.

During the competitive procurement process, the DSP will be producing for potential bidders energy usage information that some DSP customers may view as proprietary and that must be kept confidential. The period (if any) for confidentiality of the winning bid price should be much shorter than the confidentiality period for customer information. First, the ongoing regulatory burden to justify the retail rates to the Commission and interested parties while fulfilling the confidentiality requirements may be onerous. Reasonable and limited confidentiality restrictions will streamline the regulatory filing process for periodic rate changes due to the ability to disclose all information on the public record. Second, retail customers may be interested in having access to the bid price to assist in the understanding of the competitive market and the retail supply offers that they receive from potential suppliers. If the bid is confidential, then the Companies may be prohibited from providing this information. Certainly the customers that will be paying the retail rates have a legitimate interest in knowing the wholesale bid.

As a compromise to accommodate the interests of wholesale suppliers, Citizens' and Wellsboro recommend that the Commission recognize that the confidentiality agreement may contain different confidentiality time periods for different types of information and/or establish 60 days as the maximum confidentiality period for wholesale bids.

E. Proposed Regulation 54.187: Default Service Rates and the Recovery of Reasonable Costs.

By far, the most important issues in this rulemaking for Citizens' and Wellsboro are the default service rates and the recovery of reasonable costs. The Companies currently charge retail customers a GSSR that is based on the energy, capacity, ancillary service, transmission and administrative costs to procure supply to serve POLR customers. Citizens' also offers a "seasonal" rate that is higher during peak months and lower during off-peak months. The seasonal rate is developed each year from the fixed rate based on an administrative formula. No customers have requested service under the seasonal rate.

The proposed regulations contemplate a major departure from the current POLR structures maintained by Citizens' and Wellsboro. Most significantly, the regulations require the recovery of distribution-related costs through the bypassable generation-related "customer charge". The proposed regulations may also require default service providers to offer hourly priced service to some customers. As discussed below, Citizens' and Wellsboro urge the Commission to reconsider these aspects of the proposed regulations.

1. The Generation Supply Charge Should be Reconciled.

Currently, Citizens' and Wellsboro are able to update the GSSR periodically and on an interim basis to ensure that the rate enables the companies to fully recover the costs to procure POLR service. Although this methodology is appropriate as an interim approach, if significant shopping occurs the Companies' will be at greater risk of not fully recovering the costs of providing POLR/DSP service (as the companies are guaranteed under Section 2807(e)(3) of the Competition Act). This risk occurs primarily because

some of the charges are billed by PJM on a demand basis (such as transmission charges) while Citizens' and Wellsboro bill retail customers on an energy basis. This risk can be substantially minimized if reconciliation is allowed.

The proposed regulations specify that the DSP should charge customers a "generation supply charge" that recovers the prevailing market price of energy, capacity charges, ancillary services, transmission, required regional transmission organization charges and taxes. Proposed Regulation 54.187(a). The regulations state that this charge must be nonreconcilable. Id.

Citizens' and Wellsboro urge the Commission to reconsider and allow the generation charge to be reconcilable, or at an absolute minimum, adjustable on one-day's notice to reflect prospective changes in DSP costs and to prevent substantial undercollections by the DSP. If there is not reconciliation, then Citizens' and Wellsboro will be required to request "all-in" bids from wholesale suppliers that include a fixed fee for transmission and ancillary service charges. The risk to Citizens' and Wellsboro of failing to fully recover transmission and ancillary service charges is too great unless reconciliation is authorized or those charges are included in the bid price. Based on the Companies' experience in prior RFPs, a lower wholesale price can be obtained if charges for transmission and ancillary services are a passthrough of actual PJM charges, rather than part of the contract price. To ensure that POLR customers obtain supply at reasonable rates, the Commission should allow reconciliation of the generation charge.

2. *The Costs Identified for Recovery in the Customer Charge Belong in Distribution Rates.*

Section 54.187(a)(2) of the proposed regulations authorizes the DSPs to charge customers a "customer charge" that is described as "a nonreconcilable, fixed charge, set

on a per customer class basis, that includes all identifiable, reasonable costs associated with providing default service to an average member of that class." Proposed Regulation 54.187(a)(2). The regulations further specify that the customer charge should include costs for customer billing, collections, customer service, meter reading, uncollectibles, and a reasonable return or risk component for the DSP.

Wellsboro and Citizens' are very concerned about this proposal because, with the possible exception of a portion of uncollectible expense, the costs identified by the Commission are costs that the Companies will incur even if a customer accesses competitive supply. The Companies most likely will always provide billing, meter reading, collections and customer service activities for all customers, even those that access alternative generation supply. It is highly unlikely that a competitive meter reading or billing company will enter the territory and, even if one does, Citizens' or Wellsboro will need to read the meter and perform these functions related to distribution service. The costs identified in this proposed regulation are distribution expenses, which Citizens' and Wellsboro will continue to incur and will have a right under Chapter 13 to recover through unbundled distribution rates.

Moreover, the primary expenses incurred by the Companies for customer billing, collections, customer service and meter reading are expenses related to the salaries and benefits of the employees that fulfill these functions. If a customer accesses competitive supply, Wellsboro or Citizens' will not eliminate the employees that perform customer service or even reduce employees' hours based on the "reduced" responsibilities because a customer accessed competitive supply. In fact, as discussed above, the employee will not have "reduced" responsibilities and will continue to perform substantially the same

functions for the shopping account. With less than 20 employees each, placing the recovery of even a portion of an employee's salary and benefits at risk by including those costs in a nonreconcilable bypassable charge substantially impairs the Companies' opportunities to recover distribution costs and "fully recover" the costs of providing POLR supply. The risk of non-recovery is higher for smaller EDCs such as Citizens' and Wellsboro. As a result, the Companies urge the Commission to reject the concept of recovering distribution costs through bypassable generation charges.

Furthermore, this risk cannot be adequately captured in the return component of the customer charge. If the return component of the customer charge is set high enough to compensate DSPs for the risk of failing to recover the distribution costs, then the higher retail POLR rate will likely lead to more customers accessing competitive supply, which will further increase the risk that the DSP will fail to recover the costs, which will, again, increase the risk component, leading to higher POLR rates and more shopping. The logical conclusion to this cycle will result in a POLR rate so high that all customers access competitive supply and the DSP will recover none of the administrative costs allocated to the customer charge.

Section 2807(e)(3) requires DSPs to procure supply for POLR customers at "prevailing market prices" and to "recover fully all reasonable costs." 66 Pa. C.S. § 2807(e)(3). Costs for meter reading, billing and customer service are not costs to procure supply. These costs are distribution expenses that should be included in distribution rates. Citizens' and Wellsboro request that the Commission modify the proposed regulations accordingly.

3. *Smaller DSPs Should Not be Required to Submit Cost of Service Studies in Support of the Customer Charge.*

The Commission's Proposed Rulemaking Order notes that it will require EDCs to conduct cost of service studies as part of distribution rate cases to ensure that the customer charge is properly allocated among customer classes. Proposed Rulemaking Order, 35 Pa. Bull. at 1425, slip op. at 16. As the Commission is aware, the regulations currently require a cost of service study only if the EDC is requesting a distribution rate increase of \$1 million or more. See 52 Pa. Code § 53.53. This regulation appropriately recognizes that filings for rate increases under \$1 million do not justify the time and expense that is incurred in providing a cost of service study as part of a filing. Citizens' and Wellsboro urge the Commission to adhere to the current regulations and require a cost of service study only if the distribution rate increase is more than \$1 million.

4. *The Commission Should Clarify Whether a DSP Can Establish Multiple Customer Charges.*

Under the proposed regulations and the Proposed Rulemaking Order, confusion exists regarding whether the DSP can establish multiple customer charges. Specifically, the text of the Proposed Rulemaking Order discusses the DSP recovering costs "through a modified customer charge that recovers the costs for those specific customer care services being provided to shopping customers" (Proposed Rulemaking Order, 35 Pa. Bull. at 1426), while the proposed regulations appear to authorize only one customer charge that will be charged only to customers that purchase POLR supply. Citizens' and Wellsboro urge the Commission to clarify the proposed regulations on this topic, including a recognition that the Companies' charges for billing, collections, customer service and

meter reading will be recoverable through distribution rates or a "modified" customer charge applied to all customers (shopping and POLR) because the Companies will continue to provide these services to customers who shop.

5. *Hourly Priced Service Should be Optional.*

The proposed regulations may require DSPs to offer an hourly rate to customers with registered peak demands of 500 kW or greater. Proposed Regulation 54.187(d). The regulations also specify the elements of the hourly priced service. *Id.* at 54.187(e).

Citizens' and Wellsboro do not currently offer hourly rates to any customers. The Companies are concerned with the complexity of the billing system modifications that will be necessary to implement hourly pricing and the other administrative burdens associated with this type of service. Based on informal feedback from customers, the Companies doubt that any larger customers will desire hourly service. Prior to submission of the implementation plan, the Companies are willing to formally survey large customers to determine whether interest exists in an hourly priced option and to consider implementation of the proposed option if sufficient interest exists and other billing issues can be resolved; however, hourly priced service should not be a mandatory service option.

If Citizens' and Wellsboro offer hourly priced service, the Companies anticipate requesting that their wholesale suppliers perform any PJM administrative functions related to the offering and to include the hourly customers in the capacity and transmission obligations with the remainder of the default service load. The Companies are concerned about whether including an hourly priced option could increase the retail

rates for other customer classes. The Companies urge the Commission to consider this in deciding whether to require the hourly priced option.

6. *Hourly Priced Service Should Not be Mandatory for Larger Customers.*

As previously mentioned, the Companies are concerned about the proposal to make hourly priced service available to larger customers. The proposed regulations also contemplate the possibility that hourly pricing may be the only option available for larger customers. See Proposed Regulation 54.187(d) ("The default service provider shall include an hourly rate in its implementation plan" for larger customers and "may propose a fixed rate" for those customers. (emphasis added)). The Commission has implemented this type of DSP rate structure for larger customers in Duquesne's service territory beginning on June 1, 2007.

Citizens' and Wellsboro oppose the Commission retaining the discretion to reject DSPs' proposals to provide fixed price options for larger customers. The DSP should be allowed to decide whether to offer a fixed rate product based on the characteristics and needs of its customers. The customers should be able to choose the appropriate DSP product to meet their business needs. The Companies urge the Commission to eliminate from the proposed regulations the concept that a DSP's proposal to offer fixed pricing for larger customers could be rejected by the PUC.

7. *The DSP Should Determine Any Load Threshold for Hourly Priced Service.*

The proposed regulations require the DSP to provide hourly priced service for any customer with demand in excess of 500 kW. Proposed Regulation 54.187(d). It is not clear how the customer's eligibility for hourly service will be determined (e.g., demand

exceeds 500KW once per year, or based on the twelve month average, or on a consistent basis throughout the year). Customers may experience changes in eligibility for hourly priced service depending on the measurement period designated by the Commission. This may be very confusing to customers and administratively burdensome for the DSP to implement.

In lieu of a demand threshold, Citizens' and Wellsboro believe that it may be more appropriate and efficient for the DSP to designate which rate schedules will be eligible for any hourly priced service option. This will reduce customer confusion and the possible variation in the availability of the option.

8. *DSPs Should Have Flexibility in Determining the Mechanism to Recover Costs Related to Compliance with the Alternative Energy Portfolio Standards Act.*

Section 54.187(a)(3) of the proposed regulations states that the default service provider "shall use an automatic energy adjustment clause" to recover costs incurred to comply with the Alternative Energy Portfolio Standards ("AEPS") Act. Proposed Regulation 54.187(a)(3). The Companies urge the Commission to recognize that DSPs may choose different methods to comply with the AEPS Act. For example, Citizens' and Wellsboro will likely seek to have the wholesale suppliers procure sufficient Tier 1 and Tier 2 resources to meet the compliance obligations under the AEPS Act and may request to include the cost of those alternative energy resources in the wholesale bid. If this occurs, then the more logical method for Citizens' and Wellsboro to recover the AEPS costs may be through the "generation charge" rather than through an automatic adjustment mechanism. In short, the regulations should recognize the flexibility of the

DSPs to propose for Commission approval a cost recovery mechanism that best meets their needs based on the method of compliance with the AEPS Act.

9. *Smaller DSPs Should Not be Required to Implement New Demand Side Response and Demand Side Management Programs.*

Section 54.187(f) states that the DSP's implementation plan "must include rates that correspond to demand side response and demand side management programs available to retail customers in that EDC service territory." Proposed Regulation 54.187(f). Neither Citizens' nor Wellsboro currently offer demand side management programs in their territories. To the extent the Commission seeks through these regulations to require introduction of programs for all EDCs, the Companies urge the Commission to reconsider. By their nature, demand side response programs depend on offering customers an incentive to reduce or shift consumption. Under the fixed price wholesale contracts that the Companies have in place, the wholesale supply price does not account for any such incentive. If the Companies are required to introduce demand side programs, then the programs must be self-sustaining or the other ratepayers will need to subsidize the incentives provided to the participating customers. Citizens' and Wellsboro question whether such a decision is advisable, especially during the remainder of their current fixed price wholesale contracts. It is possible (but not certain) that the Companies' future contracts could be designed to include cost-effective and self-sustaining demand side response programs.

F. Proposed Regulation 54.189: Default Service Customers - Default Service Customers Should be Required to Adhere to Reasonable Service Term Requirements.

Proposed Regulation 54.189(d) states that a customer can choose to receive its generation service from an EGS at any time. Proposed Regulation 54.189(d). The Companies interpret this to mean that the DSP cannot require customers to adhere to reasonable generation service term requirements. Based on the Companies' review of the Competition Act, nothing prevents the DSP from requiring a service term commitment. If the Commission makes the policy decision to prohibit service term commitments, then this will likely increase the price of the DSP service because the wholesale supplier will increase the bid to account for the risk of customer migration. The increase to the DSP price will then also increase the risk that the DSP may fail to recover fully the administrative costs of providing default service through the customer charge. The risks to the wholesale supplier and the DSP can be minimized by requiring a reasonable service term of one-year for any yearly fixed-price retail service option.

III. CONCLUSION

The Commission's issuance of regulations to implement the post-transition period POLR provisions is a critical step for this Commonwealth. The Commission must balance the interests of EDCs, DSPs, customers and EGSs. With the modifications discussed in these Comments, the proposed regulations constitute an appropriate balance that will extend the benefits of competitive generation supply markets to customers in Pennsylvania.

Respectfully submitted,

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PLR SERVICES RIDER

(C)

A. Generation Supply Service Rate ("GSSR")

For customers purchasing energy from Citizens' Electric Company's PLR Service, a Generation Supply Service Rate ("GSSR") shall be applied to each kilowatt hour supplied. The GSSR shall be either a Fixed GSSR or a Monthly GSSR. To be eligible for the Fixed GSSR, the Customer must have been on Citizens' PLR service for supply continuously since February 1, 2002 or have committed to remain as a PLR supply customer for twelve months after receiving supply from an Electric Generation Supplier for at least twelve months. A customer receiving service from an EGS for less than twelve months must execute a twelve month supply service contract at either the Fixed GSSR or the Monthly GSSR.

1. Fixed GSSR

The Fixed GSSR shall be calculated to the nearest one thousandths of one cent per kilowatt hour in accordance with the formula set forth below. The GSSR shall be applied on services rendered.

Formula: Fixed GSSR =
$$\left[\frac{F + A}{S} \right] \times \left[\frac{1}{1 - T} \right]$$

The Fixed GSSR so computed shall be applied to customers' bills during the billing periods of March through February. Such rate may be revised on an interim basis upon determination that the then effective rate will result in substantial over or undercollection or to reflect any changes in transmission, ancillary services or congestion costs. Any revision to the GSSR necessary to reflect changes in transmission, ancillary services or congestion costs may be implemented on one-day's notice; any other revisions to the then effective rate will become effective in thirty (30) days from the date of filing the proposed revision unless otherwise ordered by the Commission.

Fixed GSSR = Fixed Generation Supply Service Rate in cents per kilowatt hour to be applied to each kilowatt hour supplied to a Customer under this tariff.

F = The total annual estimated Purchased Power Costs (inclusive of energy, capacity, transmission, ancillary service, congestion).

A = The total annual estimated administrative charges associated with the Company purchasing electric energy to serve PLR customers.

S = The company's projected total kilowatt hour sales to customers during the computation year.

T = The Pennsylvania Gross Receipts Tax rate in effect during the billing month expressed in decimal form.

(C)

(C) Indicates Change

PLR SERVICES RIDER (cont'd)

(C)

The Company's proposed annual GSSR, effective during the billing periods of March through February shall be submitted to the Commission by February 1st of each year. The new GSSR shall be effective with the Customer's first meter reading in March. The application of the GSSR shall be subject to the continuous review and audit by the Commission at such intervals as the Commission shall determine; the Commission shall continuously review the reasonableness and lawfulness of the amounts of charges produced by the GSSR and the charges therein.

If from such audit it shall be determined, by final order entered after notice and hearing, that this clause has been erroneously or improperly utilized, the company will rectify such error or impropriety, and in accordance with the terms of the order, apply adjustments against future GSSRs for such revenues as shall have been erroneously or improperly collected. The Commission's order shall be subject to the right to appeal.

2. Monthly GSSR

The Monthly GSSR shall be established by separating the Fixed GSSR into two rates. The first rate shall be applicable to usage during peak months (June, July, August, December, January and February); the second rate shall be applicable to usage during all other months. The rates shall be determined annually based on the Fixed GSSR.

B. PLR Services Rate

The PLR Services Rate shall be calculated for each Service Schedule to compensate the Company for any underrecovery of kW-based or fixed charges included in its Purchased Power Costs in comparison to projected recovery from the Service Schedule during the prior year due to customer shopping. The costs eligible for inclusion in the PLR Services Rate shall include any minimum usage charges or charges that do not vary in relation to the kWh sales accessing competitive supply alternatives. The Company shall submit a filing by February 1st of each year calculating the necessary adjustment, if any, to each Service Schedule's PLR Services Rate. The new PLR Services Rate shall be effective with the Customer's first meter reading in March.

C. Seasonal Switching Rate

A Seasonal Switching Rate may be calculated and billed to Customers on Service Schedules GLP-1 and/or GLP-3 if: (a) the Customers on that Service Schedule returned to PLR supply service from competitive supply between January 1 and December 31 of the prior year; and (b) as a result of the timing of the Customers' returns to PLR services, the Company incurred additional obligations to its wholesale supplier(s) that were not included in projected Purchased Power Costs, including any payments imposed to account for the seasonal switching behavior of Customers. The Company shall submit a filing by February 1st of each year calculating the necessary adjustment, if any, to each Service Schedule's Seasonal Switching Rate. The new Seasonal Switching Rate shall be effective with the Customer's first meter reading in March.

(C)

(C) Indicates Change

RIDER C – GENERATION SUPPLY SERVICE RATE ("GSSR")

For customers purchasing energy from Wellsboro Electric Company's PLR Service, a Generation Supply Service Rate ("GSSR") shall be applied to each kilowatt hour supplied.

The GSSR shall be calculated to the nearest one thousandths of one cent per kilowatt hour in accordance with the formula set forth below. The GSSR shall be applied on services rendered.

$$\text{Formula: GSSR} = \left[\frac{F + A}{S} \right] \times \left[\frac{1}{1 - T} \right]$$

The GSSR so computed shall be applied to customers' bills during the billing periods of March through February. Such rate may be revised on an interim basis upon determination that the then effective rate will result in substantial over or undercollection or to reflect any changes in transmission, ancillary services or congestion costs. Any revision to the GSSR necessary to reflect changes in transmission, ancillary services or congestion costs may be implemented on one-day's notice; any other revisions to the then effective rate will become effective in thirty (30) days from the date of filing the proposed revision unless otherwise ordered by the Commission.

GSSR = Generation Supply Service Rate in cents per kilowatt hour to be applied to each kilowatt hour supplied to a Customer under this tariff.

F = The total annual estimated Purchased Power Costs (inclusive of energy, capacity, transmission, ancillary service, congestion, PJM imposed costs).

A = The total annual estimated administrative charges associated with the Company purchasing electric energy to serve PLR customers.

S = The company's projected total kilowatt hour sales to customers during the computation year.

T = The Pennsylvania Gross Receipts Tax rate in effect during the billing month expressed in decimal form.

(C) Indicates Change

RIDER C – GENERATION SUPPLY SERVICE RATE ("GSSR") (cont'd)

The Company's proposed annual GSSR, effective during the billing periods of March through February shall be submitted to the Commission by February 1st of each year. The new GSSR shall be effective with the Customer's first meter reading in March. The application of the GSSR shall be subject to the continuous review and audit by the Commission at such intervals as the Commission shall determine; the Commission shall continuously review the reasonableness and lawfulness of the amounts of charges produced by the GSSR and the charges therein.

If from such audit it shall be determined, by final order entered after notice and hearing, that this clause has been erroneously or improperly utilized, the company will rectify such error or impropriety, and in accordance with the terms of the order, apply adjustments against future GSSRs for such revenues as shall have been erroneously or improperly collected. The Commission's order shall be subject to the right to appeal.

(C)

(C)

(C) Indicates Change