BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Metropolitan Edison Company,	:	
Pennsylvania Electric Company,	:	Docket Nos. P-2021-3030012
Pennsylvania Power Company and West	:	P-2021-3030013
Penn Power Company for Approval of	:	P-2021-3030014
Their Default Service Programs for the	:	P-2021-3030021
Period From June 1, 2023 Through May	:	
31, 2027	:	

SURREBUTTAL TESTIMONY OF

TRAVIS KAVULLA

ON BEHALF OF
RETAIL ENERGY SUPPLY ASSOCIATION
AND NRG ENERGY, INC.

TOPICS:

Competitive Market Issues
Default Service Investigation
Proposed TOU Rate
Long-Term Solar Procurement
Default Service Rate
Customer Referral Programs
Operational Issues

APRIL 7, 2022

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. My name is Travis Kavulla and I am Vice President, Regulatory Affairs for NRG Energy, Inc. ("NRG"). My business address is 1825 K. St. NW, Suite 1203, Washington, D.C. 20006.

Q. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY IN THIS PROCEEDING?

A. Yes. On February 25, 2022, I submitted Direct Testimony on behalf of the Retail Energy Supply Association[1] ("RESA") and NRG, and on March 24, 2022, I submitted Rebuttal Testimony on behalf of RESA and NRG.

Q. HAVE YOU REVIEWED REBUTTAL TESTIMONY SUBMITTED BY OTHER PARTIES IN THIS PROCEEDING?

A. Yes.

Q. BASED UPON YOUR REVIEW OF THE OTHER PARTIES' REBUTTAL TESTIMONY, HAVE YOU CHANGED YOUR POSITION ON ANY OF THE ISSUES ADDRESSED BY YOUR DIRECT AND REBUTTAL TESTIMONIES?

A. No. I stand behind my Direct Testimony and Rebuttal Testimony, including the observations and recommendations set forth therein. Merely because I am electing to not respond to all of the other parties' testimony that addresses issues affecting the competitive electric retail market should not be viewed as acceptance of their positions on those topics. To the contrary, I continue to believe that Pennsylvania is at a point when the Commission needs to assume its prior national leadership role to address 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 at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

flaws that are preventing customers from realizing the benefits of a properly functioning retail electric market.

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

A. The purpose of my Surrebuttal Testimony is to respond to the Rebuttal Testimonies of several witnesses presented by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, the "Companies"), including: Joanne M. Savage,[2] James H. Catanach,[3] James D. Reitzes/Nicholas E. Powers,[4] Patricia M. Larkin,[5] and Kenneth Strah.[6] In addition, I am responding to the Rebuttal Testimonies of: (i) the Office of Consumer Advocate ("OCA") presented by Serhan Ogur[7] and Barbara R. Alexander;[8] (ii) the Office of Small Business Advocate ("OSBA") submitted by Robert Knecht;[9] and (iii) Harry Geller, testifying on behalf of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA").[10]

Q. GIVEN THE NUMBER OF WITNESSES YOU ARE RESPONDING TO BY THIS SURREBUTTAL TESTIMONY, IT APPEARS THAT SEVERAL PARTIES DISAGREE WITH YOUR RECOMMENDATIONS. DO YOU HAVE ANY COMMENTS ABOUT THAT?

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2 Companies' Statement No. 1R.

3 Companies' Statement No. 2R.

4 Companies' Statement No. 4R.

5 Companies' Statement No. 5R.

6 Companies' Statement No. 7R.

7 OCA Statement No. 1R.

8 OCA Statement No. 2R.

9 OSBA Statement No. 1-R.

10 CAUSE-PA Statement No. 1R.

A. Yes. I recognize that several parties, including the Companies, OCA, OSBA and CAUSE-PA, disagree with most of the recommendations that I have advanced on behalf of RESA and NRG. It is important to emphasize that RESA and NRG are focused on making proposals that help to promote development of the competitive market, which Pennsylvania's General Assembly mandated through passage of the Electricity Generation Customer Choice and Competition Act ("Customer Choice Act")[11] more than 25 years ago. Of note, the Commission's own Bureau of Investigation and Enforcement ("I&E") did not submit Rebuttal Testimony refuting any of the recommendations that RESA and NRG have offered.

In launching Phase II of the Retail Markets Investigation ("RMI") in July 2011, the Commission found that 22% of the customers shopping shows that "consumers are not moving in the retail market place at a rate that we would expect in a well-functioning market."[12] Notably, more than a decade later, the Companies' shopping statistics throughout their serve territories are very similar to the statewide percentage in 2011 and the statewide statistics today are only slightly better at 26%.[13]

Just as the Commission has not been satisfied with shopping levels in the past, the Commission should take steps to improve the status of participation in the market today. Of note, even when Pennsylvania hit the milestone of 2 million customers participating in the electric choice program in February 2013, only 35% of customers were shopping for

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[11] 66 Pa. C.S. §§ 2801 *et seq.*

[12] *Investigation of Pennsylvania's Retail Electricity Market,* Docket No. I-2011-2237952 (Order entered July 28, 2011, at 6) ("*RMI Phase II Order*").

[13] https://www.papowerswitch.com/media/31ob5hkc/paps_numbers022822.pdf

competitive supply.[14] About the only area in life where that percentage is considered successful is in a baseball batting average. While the Commission celebrated the achievement, the Commission was understandably not satisfied with that level of success for the retail market and continued pressing forward with the RMI it had launched less than two years before. Vice Chairman Coleman declared: "This celebration of 2 million shopping customers is not the end of our story. The PUC is in the final stages of an investigation intended to ensure the state's regulatory framework is one that encourages a market where consumers have continued choices for electric supply."[15]

Today, Pennsylvania's retail market is at a crossroads. Shopping statistics have significantly declined over the past five years and fewer than 1.6 million customers are currently purchasing electricity from electric generation suppliers ("EGSs"). Continuing to do nothing to foster the development of the retail market disregards the fundamental premise of the Customer Choice Act and undermines the Commission's prior efforts to remove "impediments to a fully functioning, robust retail market."[16] It is imperative for the Commission to examine the framework on which the electric choice program is based and make changes, where feasible and necessary. I urge the Commission to keep that in mind as it adjudicates the issues we have raised in an effort to bring the benefits of competition to Pennsylvania consumers.

II. <u>SUMMARY OF RESA/NRG RECOMMENDATIONS</u>

Q. PLEASE SUMMARIZE THE RECOMMENDATIONS YOU PRESENT IN YOUR DIRECT TESTIMONY ON BEHALF OF RESA/NRG.

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14 https://www.puc.pa.gov/press-release/2013/puc-marks-2-million-electric-customers-shopping-emphasizes-more-work-ahead-to-ensure-robust-market-continues

15 *Id.*

16 *RMI Phase II Order* at 5.

A. My recommendations can be summarized as follows:[17]

- The Commission should recognize the need to make structural changes to the competitive retail market so that competitive retail offerings will flourish, drive significant investment, or result in innovative product offerings;
- The Commission should open one or more proceedings following the entry of an Order on the Companies' DSP VI Petition to:

  (1) reexamine the current structure of default service and consider whether it should be modified so that it is truly a back-stop option that is supplied by EGSs; and

  (2) revisit the default service regulations and policy statement and determine whether revisions should be made to ensure that electric distribution companies ("EDCs") are recovering all default service costs through the default service rates.
- In tandem with allowing the Companies to offer a time-of-use ("TOU") rate, the Commission should approve the TOU rate as the standard default rate;
- The Commission should dispense with the misnomer of "Price to Compare" when referring to default service rates;
- The Commission should not permit the Companies to transition from quarterly to semi-annual adjustments of their default service rates;
- The Commission should reject the Companies' proposal to enter into 10-year solar alternative energy credit contracts, or limit such contracts to the proposed default service plan program period;
- The Commission should modify certain aspects of the existing Customer Referral Program to increase participation by consumers; and
- The Commission should require the Companies to make changes to the Supplier Tariff to address recent issues affecting EGSs' ability to bill for supply services and get paid.

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[17] RESA/NRG Statement No. 1 at 4-5.

III. COMPETITIVE RETAIL MARKET

Q. PLEASE BRIEFLY YOUR OBSERVATIONS ABOUT THE COMPETITIVE RETAIL MARKET.

A. When I led the National Association of Regulatory Utility Commissioners ("NARUC") as president of NARUC, Pennsylvania's reputation as being a national leader in opening its market to competition, for the benefit of consumers, was well-known. In my Direct Testimony, I refer to the significant decline in the percentage of customer participation in the retail market over the past five years and describe Pennsylvania's electric market as stagnating. At the crux of this stagnation is the presence of a domineering default service provider ("DSP") – also, the monopoly EDC – and a persistently unlevel playing field between the DSP and electric generation suppliers EGSs. Without structural changes to improve the market, it is not realistic to expect competitive retail offerings to flourish, drive significant investment or result in innovative product development. For that reason, I recommend in Direct Testimony that the Commission launch a separate proceeding that focuses on transitioning the DSP role from the EDCs to EGSs.[18]

Q. HOW DO OTHER PARTIES RESPOND TO YOUR CONCLUSIONS THAT THE RETAIL MARKET IS STAGNATING?

A. Testifying for the Companies, Drs. Reitzes and Powers disagree that the market is stagnating. Their view is based upon comparisons between the total load that is served by EDCs and EGSs and the number of active EGSs in the market.[19]

Q. PLEASE RESPOND.

[18] RESA/NRG Statement No. 1 at 7-17.

[19] Companies' Statement No. 4R at 6-8.

A. While EGSs are serving a large amount of the load of industrial and large commercial customers, the fact remains that the percentage of mass market customers (*i.e.*, residential and small commercial customers) shopping for electricity declined significantly between January 2017 and January 2022 – a reality that the Companies' witnesses do not refute. The number of EGSs actively participating in the market is also of no particular consequence since they are clearly not serving a high number of residential and small commercial customers and are serving far fewer mass market customers than they were five years ago. With the EDCs serving 74% of the statewide residential load, this means that the remaining 137 licensed EGSs serve only one quarter of the residential market, with an average market share per EGS of 0.175%.[20] This level of retail competition is inconsistent with the Customer Choice Act and demonstrates the need for the Commission to act now in reviewing the current status of competition and the proper functioning of the market.

The Commission has previously evaluated competition in a retail market by considering participation in the market by many buyers and sellers, the lack of substantial barriers to market entry for suppliers, the lack of substantial barriers that would discourage customer participation, and the presence of sellers offering buyers a variety of products and services.[21] Yet, based on the shopping statistics alone, which were in line with where they are today in the Companies' service areas, the Commission found a compelling need to launch the RMI. In doing so, the Commission highlighted its

[20] https://www.puc.pa.gov/electricity/electric-companies-suppliers/licensed-suppliers/ (137 EGSs excludes brokers and marketers).

[21] *RMI Phase II Order* at 4.

dissatisfaction with the lack of innovative products that are available to retail customers in a truly competitive market.[22]

Q. WHAT ARE THE VIEWS OF OTHER PARTIES AS TO WHY THE SHOPPING STATISTICS HAVE DECLINED?

A. Testifying for the Companies, Drs. Reitzes and Powers suggest that EGSs are not making attractive offers to residential and small commercial customers in terms of pricing and other retail product attributes. They also opine that residential customers have smaller loads, which may make it less valuable for them to invest effort in comparing the various options available to them. In addition, Drs. Reitzes and Powers testify that residential and small commercial customers do not have the time, sophistication or resources to choose an EGS and therefore stay on default service. The Companies' witnesses further claim that the primary factor in determining whether residential customers remain with an EGS is whether they will see savings on their electric bills. Referring to the higher prices paid by residential shopping customers over what they would have paid the Companies, as presented by CAUSE-PA witness Geller, Drs. Reitzes and Powers contend that the value of shopping is decreasing over time.[23]

On behalf of OCA, Ms. Alexander refers to studies from other restructured states showing that on average retail electric suppliers charge more than the applicable default service over a reasonable period of time.[24] OCA witness Ogur presents shopping statistics from neighboring states to show that the decline in residential shopping levels compared to five years ago is not unique to the Companies' service territories. Mr. Ogur

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[22] *RMI Phase II Order* at 6.

[23] Companies' Statement No. 4R at 9-12.

[24] OCA Statement No. 2R at 13-14.

also suggests that shopping statistics may be lower because customers have failed to see the savings and product innovations than were expected with the implementation of electric choice.[25] Likewise, CAUSE-PA witness Geller describes the decline in residential shopping rates as the natural consequence of EGS pricing and other alleged practices.[26]

Q. PLEASE RESPOND.

A. Importantly, shopping consumers are not always and exclusively focused on savings on the monthly electric bill, especially if other products of value are included in the offer. In the Pennsylvania market, these products include 100% renewable energy, one year of free Amazon Prime, a National Park Pass, or a charitable contribution. Indeed, the Commission's own reporting shows that one-third of residential shopping customers chose renewable energy products in 2020, which was an increase over prior years.[27] Additionally, customers may pay a premium for the insurance that a long-term, fixed-price product provides through price stability over a period of two or three years.

Further, I do not agree with the Companies' testimony suggesting that residential and smaller commercial customers are not sophisticated enough to make choices or lack the time and resources to do so. Pennsylvania's shopping website, PaPowerSwitch.com, is very user-friendly, making it easy for customers to compare products being offered in the market without requiring a significant investment of time. Rather, a key reason for

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25 OCA Statement No. 1R at 11-13.

26 CAUSE-PA Statement No. 1R at 3-4. I note that Mr. Geller does not point to any evidence regarding other alleged practices of EGSs. His citation refers to I&E settlements with EGSs where no wrongdoing was admitted or found, except for adjudicating proceedings from 2014 and 2016, which precede the recent significant decline that I have addressed.

27 Retail Electricity Choice Activity Report released in October 2021 at 1 and 29. In 2020, 457,867 of 1,741,095 residential shopping customers chose renewable energy products. https://www.puc.pa.gov/media/1787/retail_elec_choice_report2020v2.pdf

low participation in the market is the simple behavioral economics that has led default service to be a product of first resort, which former Commissioner James Cawley observed 10 years ago when he aptly explained that the "fundamental problem with the current default supply structure is that the majority of consumers will not make a proactive decision to choose an energy supplier when they are provided a default supplier if they do not choose one."[28] (One of the reasons I propose to make the Customer Referral Program more easy-to-use and visible is to ensure a structure where customers are presented with a simple and clear choice to participate in the competitive market at times when they are actively thinking about their energy supply.) Commissioner Cawley pointed to the lack of shopping in the service territory of Duquesne Light Company where multiple supplier offers were available that would be more than 20% lower than the utility's prices, concluding that "mass market customers, including residential and small commercial customers, often will not make affirmative choices for their supplier unless they are required to."[29]

Other reasons for the stagnation of Pennsylvania's retail market include having the EDCs in the DSP roles, artificially low default service rates, and the inability of EGSs to issue consolidated bills to customers that contain both the EDC's distribution charges and the EGS's supply charges – which is known as supplier consolidated billing ("SCB"). Many product innovations and larger investment in the Pennsylvania market are possible only if the EGS is able to offer SCB. SCB enables suppliers to establish relationships with customers; be seen as offering something more than just a commodity; communicate

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[28] *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952 (Concurring and Dissenting Statement dated September 27, 2012) at 1.

[29] *Id.* at 2.

more effectively with customers; and be more accountable to customers – all things that make the market flourish.

IV. DEFAULT SERVICE INVESTIGATION

Q. PLEASE DESCRIBE THE REBUTTAL TESTIMONY OF OTHER PARTIES REGARDING YOUR RECOMMENDATION FOR A DEFAULT SERVICE INVESTIGATION.

A. Ms. Savage, on behalf of the Companies, disagrees with this recommendation, citing the Commission's past consideration of the issue during the RMI and the outcome of the inquiry at that time which was to retain EDCs in this role.[30] OCA witness Alexander describes the proposal of RESA/NRG for structural changes to the market as "radical" and based on the unique market structure of Texas.[31] Mr. Geller, on behalf of CAUSE-PA, testifies that there is no need for any further investigation into the default service model.[32] Although Mr. Knecht, testifying for OSBA, does not oppose a default service investigation and opines that higher prices from EGSs may be justified in part by the nature of the product or value-added services, he suggests that any investigation should include a broader agenda. He would have the Commission also examine whether EGS prices in excess of the default service rate are accompanied by valuable services for shopping customers, whether customer referral programs ("CRPs") should be terminated, whether EGSs have taken advantage of smart metering, etc.[33]

Q. HOW DO YOU RESPOND?

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30 Companies' Statement No. 1R at 16-17.

31 OCA Statement No. 2R at 3-4.

32 CAUSE-PA Statement No. 1-R at 6.

33 OSBA Statement No. 1-R at 4-5.

A. At the outset, the Commission's consideration of the default service model in the RMI should not be relied upon a decade later as a reason to forgo a review of this framework, particularly given the reverse path that Pennsylvania's electric choice program is currently on. Ten years have passed since the Commission held the *en banc* hearing during the RMI, which was focused specifically on various models for placing EGSs in the DSP role.[34] Even though the Commission declined to transition the DSP role from EDCs to EGSs at the conclusion of the RMI, the Commission certainly did not close down any further discussions regarding this issue. To the contrary, the Commission referred to other retail market enhancements that were being implemented as a "reasonable step in the evolution of Pennsylvania's retail electric market" and acknowledged that it may revisit the merits of adopting alternative DSP or DSPs in the future.

Recognizing that having the EDCs in the DSP role presents a structural barrier to a robust market, and the need for EDCs to focus on their core competencies, the Commission concluded that "at this time, it would be prudent to be patient" and allow the other changes to be implemented. The Commission's expectation was that the retail market enhancements would permit the market "to continue its fairly steady progress of organic growth while providing the Commission with the ability to take further action in the future, if necessary.[35]

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[34] *Investigation of Pennsylvania's Retail Electricity Market*, Docket No. I-2011-2237952 (Secretarial Letter dated March 2, 2012).

[35] *Investigation of Pennsylvania's Retail Electricity Market,* Docket No. I-2011-2237952 (Order entered February 15, 2013 at 20) ("*RMI End State Order*").

The steady progress envisioned by the Commission in 2013 has not occurred. Particularly in view of the steady and significant declines in shopping over the past five years, which is contrary to the growth that the Commission expected, now is the time for the Commission to revisit this model. Markets do not continue to evolve if issues are not periodically examined. The retail electric market in Pennsylvania must continue to evolve to keep up with technology advancements, the roll-out of advanced metering infrastructure ("AMI") since the RMI, a trend toward net zero/carbon reduction, growth of electric vehicles and interest in community solar. All of these changes have occurred in the last 10 years and it means that consumer behavior is changing; more information is available to help consumers understand their usage better and be better informed in general; the past is not a predictor of the future; customer expectations are evolving; and the Commission needs to evolve this market or risk being unprepared for the changes that are coming.

I further note that RESA and NRG's proposals are neither radical nor Texas-based. We are not suggesting that the Commission eliminate default service. Simply, RESA and NRG view the time as being now for the Commission to revisit the default service model in Pennsylvania While we are not necessarily opposed to a default service investigation including a broader agenda, we believe that the default service framework which has the EDC in the DSP role is an important topic that deserves its own focus.

V. <u>TIME-OF-USE RATES</u>

A. <u>Time-of-Use Rate as Default Service Rate</u>

Q. PLEASE BRIEFLY DESCRIBE THE RESA/NRG PROPOSAL REGARDING THE COMPANIES' PROPOSED TIME-OF-USE RATE.

A. RESA and NRG do not oppose the Companies' proposal to offer time-of-use ("TOU") rates. However, the Companies and, if their proposal is accepted, the Commission are setting themselves up for failure if this DSP rate is offered only on an opt-in rather than a default basis. As I describe in my Direct Testimony, the recent history of the Companies demonstrates that an opt-in program will not result in substantial enrollment in or visibility for the TOU rate. Enrollment in the Companies' current TOU rate has been abysmal, and there is no reason to believe that participation would increase under the Companies' proposal in this proceeding. As a result, consumers will continue *not* to have a default retail rate that is based in the opportunity that smart meters provide, and which was heralded as a benefit when this investment was approved. This is a textbook example of a massive increase to utilities' rate base having been approved, earning a generous return for the utilities in question, while not subsequently being operationalized to the investment's full advantage. No party has disputed the reasonableness of the utilities' cost-based TOU rate in this proceeding. Therefore, in my Direct Testimony, I recommend that the TOU Rate be the default service rate available to non-shopping customers.[36]

Q. HOW DO OTHER PARTIES RESPOND TO THIS RECOMMENDATION?

A. On behalf of the Companies, Ms. Larkin testifies that an EDC's TOU program should be optional for default service customers.[37] Testifying for OSBA, Mr. Knecht raises a question about the legality of using the TOU rate as the default rate.[38] Similarly, Ms. Alexander sets forth OCA's position that Pennsylvania law contemplates that TOU rates

[36] RESA/NRG Statement No. 1 at 18-20.

[37] Companies' Statement No. 5R at 10.

[38] OSBA Statement No. 1-R at 2-3.

are optional. Ms. Alexander also questions how a mandatory TOU Rate could be obtained in the wholesale market while also meeting the default service mandate of acquiring a prudent mix of contracts to assure that the portfolio will result in a least cost over time. Further, Ms. Alexander points to a provision in the Commission's regulations, which she claims stands for the proposition that default service be structured as a single rate and displayed as a single line item on the bill.[39] Ms. Alexander also attempts to differentiate Pennsylvania from other jurisdictions, including California and Michigan, which have adopted a TOU rate design for default service.[40] Finally, OCA witness Alexander claims that Massachusetts and Maryland explicitly rejected reliance on TOU rates for residential customers to justify smart meter investments.[41]

Q. HOW DO YOU RESPOND?

A. Although I understand that this issue involves a legal interpretation of Act 129 of 2008, which I will defer to counsel to address during the briefing phase, I note that the RESA and NRG proposal <u>does</u> make an EDC's TOU program optional for customers. Any customer who does not wish to risk the uncertainty of time-varying charges is free to select the price structure of their choosing in the competitive market.

In addition, the competitive procurement process mandated by the Customer Choice Act and the rate design that is implemented by the Companies for default service are separate issues. Indeed, the TOU Rate, by pricing the peak time period around marginal costs, appropriately unifies two goals of ratemaking: the recovery of costs incurred by the EDC acting as DSPs and the conveyance of appropriate price signals to

[39] OCA Statement No. 2R at 5-6; 52 Pa. Code § 187.

[40] OCA Statement No. 2R at 6.

[41] OCA Statement No. 2R at 6-7.

consumers that will help avoid those costs that are related to demand, such as transmission and capacity costs, as well as energy costs during the interval. As I testified before, the Company has done a good job designing the TOU Rate to include avoidable costs as a marginal price signal within the peak price, and this price signal should be the default, not an option, because it is a rate that more closely adheres to the economic principles of utility ratemaking, especially now that we are blessed with the technological innovation of advanced metering that allows such rates to be widespread.[42]

Regarding the regulation cited by Ms. Alexander providing for default service customers to be offered a single rate option, that requirement is consistent with the RESA/NRG proposal to make TOU the default service rate—the single option. Ms. Alexander's position is, indeed, an unwitting recognition that the Companies' proposal to have multiple, different default service rates is essentially incompatible with the concept of default service. I have no real competence to make declarations about the law, like Ms. Alexander does, but I agree with her that there should be a single rate option as a default service option, rather than a confusing bouquet of options, which is why I advocate selecting TOU as a default rather than an "opt-in" offering. Further, the provision requiring the PTC to be displayed as a separate line item does not preclude use of TOU as the default service rate.[43] Regardless of the rate design that is implemented for default service, including the TOU rate, it would be displayed as its own line item on the monthly bill.

[42] RESA/NRG Statement No. 1 at 20.

[43] 52 Pa. Code § 187(c).

Ms. Alexander also testifies that Michigan and California, which have both adopted a TOU rate, have not adopted a retail energy market for residential customers that allows them to choose their own provider, like Pennsylvania.[44] She points to this as a reason not to support an opt-out TOU rate in Pennsylvania. This is a perplexing assertion, and simple reasoning should lead an observer to the opposite conclusion of Ms. Alexander: Because Pennsylvania consumers, unlike Californians and Michiganders, have a far wider variety of options to select an alternative retail product from the Pennsylvania competitive retail market, including a non-time-varying-rate product, there is no compelling reason not to have the default product defined by utility regulators be something other than a product that more closely aligns to cost—in other words, the TOU product.

Finally, Ms. Alexander's reliance on decisions by regulators in Maryland and Massachusetts is misleading. Neither jurisdiction has yet to have been presented with a proposal, upon smart meter deployment, to use the TOU rate as the default service rate. The Maryland Public Service Commission ("MD PSC") rejected the entire 2010 AMI deployment proposal of Baltimore Gas and Electric Company ("BGE").[45] BGE had sought authorization to deploy a smart grid initiative and to establish a surcharge mechanism for the recovery of costs. The MD PSC was "not persuaded that this bargain is cost-effective or serves the public interest, at least not in its current form."[46] The MD PSC did not reach the merits of whether a default TOU rate was appropriate or not.

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[44] OCA Statement No. 2R at 7.

[45] *In the Matter of the Application of Baltimore Gas and Electric Company for Authorization to Deploy a Smart Grid Initiative and to Establish a Surcharge for the Recovery of Cost*, Case No. 9208, Order No. 83410 dated June 21, 2010 at 1.

[46] *Id.*

Similarly, the Massachusetts Department of Public Utilities ("DPU") rejected AMI in its entirety, including the argument that having time-varying charges available to residential customers justified smart meter investment.[47] The Massachusetts Commissioners' judgment did not hinge on whether or not TOU ought to be the default rate for consumers. By contrast, in Pennsylvania, AMI was approved with a transformation in consumer rate design in mind.[48]

Put simply, Pennsylvania regulators approved, and consumers are paying for, a smart grid that remains very dumb, at least as far as retail ratemaking is concerned.

B. Inability of EGSs to Display Savings on Bill

Q. EVEN IF CUSTOMERS DO NOT EMBRACE THE COMPANIES' TOU RATE, COULDN'T THEY STILL BENEFIT FROM THE SMART METER INVESTMENT BY CHOOSING TOU RATES FROM EGSS?

A. Yes, but only if EGSs have the same option that is available to EDCs of issuing a consolidated bill to customers that includes both the utility's distribution charges and the EGS's supply charges.[49] With the significant investments in smart meters of over $2 billion that Pennsylvania has made and the extensive work that has been done to develop protocols for sharing that information with EGSs, the Commission cannot stop there. To not take advantage of this large infrastructure investment would be a waste of ratepayer's capital. Now that EGSs finally have access to smart meter data that enables them to develop customized energy solutions for existing and prospective customers, it is

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47 *Petition of Massachusetts Electric Company and Nantucket Electric Company, d/b/a National Grid for Approval by the Department of Public Utilities of its Grid Modernization Plan*, D.P.U. 15-120, Order dated May 10, 2018 at 1-2.

48 RESA/NRG Statement No. 1 at 19-20.

49 Attached to my Direct Testimony as RESA/NRG Exhibit TK-12 is an example of a supplier consolidated bill showing the impact of time-varying charges on the customer's monthly energy costs.

essential that the Commission press forward to allow EGSs to issue consolidated bills to those customers.

Although consumers rely on mobile applications ("apps") and other mechanisms to pay for other products and services they purchase, EDCs in Pennsylvania continue to hold monopoly status as the only entity that can provide consolidated bills to consumers. The ability to offer innovative products and services is meaningless if EGSs are unable to properly bill for them and show the customer on a consolidated bill the benefits of choosing those options. Once EGSs have established direct relationships with their supply customers, learned what those customers want and are able to show those customers on the monthly bills the benefits of choosing a particular product or service, the possibilities are endless for the types of innovative products that EGSs can and will offer. If consumers desire to choose any product or service from an EGS other than a "plain-vanilla" per kWh price, their only choice is to receive dual bills from the EDC and EGS, which consumers find unacceptable.

Q. WHAT HAVE OTHER PARTIES CLAIMED REGARDING THE ADEQUACY OF UTILITY CONSOLIDATED BILLING TO ACCOMMODATE TOU RATES OFFERED BY EGSS?

A. Testifying for the Companies, Ms. Larkin claims that the utility consolidated billing ("UCB") option provides ample space for EGSs to display their TOU pricing, with seven lines and 80 characters per line to describe their pricing in the supply charges section of the consolidated bill.[50] Likewise, witnesses for OCA and CAUSE-PA suggest that UCB enables an EGS to convey time-varying rates.[51]

50 Companies' Statement No. 5R at 11.

51 OCA Statement No. 2R at 7; CAUSE-PA Statement No. 1R at 15-17.

Q. WHY IS THE UCB OPTION INADEQUATE FOR EGSS IN CONVEYING THE EFFECTS OF TIME-VARYING CHARGES?

A. It is not only about the amount of space that is available on the bill. The larger issue is the lack of flexibility of UCB to accommodate the many different variations of time-varying charges that EGSs would offer (and do offer in other jurisdictions) if they could effectively show the customer the savings they realized from shifting their usage. For example, Ms. Larkin's illustration in her testimony of how an EGS could use this space to present the effects of a customer shifting usage to a lower cost period only has two different charges, peak and off-peak, with no seasonal variations. An EGS may have different time periods, or critical peak times when a rebate is triggered for using less, or troughs when usage is encouraged, for a customer. EGSs should not be required to use the limited space on the EDC bill to include a display and description of how the customer benefited from a time-varying usage price. SCB is a critical path forward for EGSs to establish direct relationships with customers, provide them products that are intended to encourage flexible demand through understandable and visually catching appeals, and customize products customers demand based on their own unique needs. This kind of retail product differentiation takes advantage of the smart meter investment, while a "text box" on the utility's bill does not.

C. <u>Eligibility for TOU Rate</u>

Q. AS TO ELIGIBILITY FOR THE TOU RATE, WHAT IS THE RESA/NRG POSITION?

A. In my Direct Testimony, I describe the opposition of RESA and NRG to the Companies' proposal to make customers ineligible for the TOU Rate if they participate in the Companies' Customer Assistance Programs ("CAPs"). My understanding of Pennsylvania law is that all customers with a smart meter are entitled to select a TOU

Rate. This mandate makes no exceptions and is consistent with the fundamental feature of the Customer Choice Act – being choice for customers.

Q. WHAT POSITION DO OTHER PARTIES TAKE ON THIS RECOMMENDATION?

A. Ms. Larkin claims that the Companies' CAP customers may be charged a TOU Rate that is above the average default service rate if the customer is unable to shift usage to off peak hours.[52]

Q. HOW DO YOU RESPOND?

A. I do not see any link between a customer being on a CAP and being unable to shift usage to off peak hours. Frankly, I view the Companies' attempt to make such a link as underestimating the sophistication of low-income customers to manage their energy consumption. Indeed, in the PC44 Time of Use Pilots: End-of-Pilot Evaluation prepared by the Brattle Group for the MD PSC in 2021, one of the issues examined was to separately measure the impact of TOU rates on low and moderate income ("LMI") customers and non-LMI customers. Notably, one of the Companies' own witnesses in this proceeding, Dr. Powers, was a consultant on the study for the MD PSC. These two groups were allocated to separate treatment cells, allowing their responses to be measured in parallel. A key result from the analysis was that "the PC44 pilots conclusively showed that LMI customers respond to the price signals just like the non-LMI customers, and in most cases in similar magnitudes.[53]

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[52] Companies' Statement No. 5R at 13-14.

[53] https://www.brattle.com/wp-content/uploads/2021/12/PC44-Time-of-Use-Pilots-End-of-Pilot-Evaluation.pdf at i and 52.

VI. LONG-TERM SOLAR PROCUREMENT

Q. PLEASE DESCRIBE THE POSITION OF RESA AND NRG ON LONG-TERM SOLAR PROCUREMENT.

A. In my Direct Testimony, RESA and NRG oppose the Companies' proposal to enter into power purchase agreements ("PPAs") to procure solar energy and solar photovoltaic alternative energy credits ("SPAECS") for terms of up to 10 years. The rationale for our opposition includes the following: (i) entering into contract that extend six years beyond the DSP program plan period is not reasonable since this would impede the ability of the Commission to approve an alternative DSP; (ii) the use of long-term contracts places the Companies' captive ratepayers at risk because they will be required to pay for the costs of contracts that may end up being uneconomic over their life; and (iii) when DSPs are permitted to use the threatened lack of solar development as a reason for them to enter the market with a supply agreement to "correct" it, the willingness and ability of EGSs to undertake these projects (relying on private investment) is hampered.[54] Therefore, I recommend that wholesale default service suppliers should be required to deliver the full amount of their solar requirements and not pursue the proposed long-term solar procurement. Alternatively, the Commission should direct the Companies to modify solar procurement to four years to match the proposed DSP VI program period.[55]

Q. HOW DO THE OTHER PARTIES RESPOND?

A. Through Rebuttal Testimony of Mr. Catanach, the Companies indicate that RESA and NRG have not provided any evidence to show that the Companies' procurement proposal

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54 RESA/NRG Statement No. 1 at 37-41.

55 RESA/NRG Statement No. 1 at 38.

will harm solar development in Pennsylvania.[56] On behalf of OCA, Mr. Ogur describes my concern about the Commission's approval of an alternative DSP as speculative and suggests that any contractual obligations incurred by the Companies can be transferred to the DSP.[57]

Q. WHAT IS YOUR RESPONSE?

A. In response to Mr. Catanach, my Direct Testimony, which is evidence offered by RESA/NRG, I explain that when default supply utilities are allowed to use the promotion of solar development as a reason for them to enter the market with a supply agreement to support it, it hampers the willingness and ability of EGSs to undertake these projects themselves. It also hampers the willingness of solar developers to enter into contracts with EGSs when they know they can contract with the utility on a long-term basis and interferes with the ability of EGSs in the market to procure SPAECs.[58] In this regard, I rely on my own expertise as someone who has personally regulated industries where firms that enjoy a guarantee of cost recovery compete against those firms that do not have that guarantee. I also cite to other experts' study of the issue. [59]Simply put, it does not require any especially deep quantitative analysis to conclude the following: EGSs that must stake their own capital at risk are going to be unwilling to make long-term investments if they forecast a persistently unlevel playing field where their competition is a rate-regulated utility with the ability to recover all its costs, even on bad deals.

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56 Companies' Statement No. 2R at 7.

57 OCA Statement No. 1R at 7-8.

58 RESA/NRG Statement No. 1 at 38-39.

59 RESA/NRG Statement No. 1 at 6, footnote 11.

As to Mr. Ogur's description of my concern about the Commission's approval of an alternative DSP as speculative, I believe the opposite is true. The only thing presently before the Commission is this DSP plan, which expires well before the Companies' proposed solar contracts. It is speculative to assume that the EDC will continue to be in the DSP role after expiration of the pending DSP plan, should it be approved. The Customer Choice Act expressly authorizes the Commission to approve an alternative DSP, and it would not be appropriate for the Commission to prejudge the outcome of a future DSP proceeding.[60] It essentially does so when it approves contractual arrangements that extend beyond the term of the proposed DSP. If the Commission adopts the Companies' proposal, it should include a requirement that the contracts can be voided by a change made in another DSP proceeding, including either a change in the DSP entity or the approval of an alternative procurement strategy. Holding a future DSP responsible for the bad deal negotiated by the EDC is not a reasonable outcome.

It is time to establish confidence for investment by EGSs by adopting more significant reforms, which will do more over the long term to promote confidence and investment in renewables, including in-state solar needed to comply with the AEPS. In the approach I propose, the DSP will obtain sufficient SPAECs through their wholesalers, who like EGSs are competitive actors that must manage their risk and costs. That ensures a substantially more level playing field than what the Companies are recommending in this proceeding.[61]

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[60] 66 Pa.C.S. § 2807(e)(3.1).

[61] RESA/NRG Statement No. 1 at 40-41.

VII. DEFAULT SERVICE RATES

A. Allocation of Indirect or Overhead Costs to Default Service

Q. PLEASE BRIEFLY DESCRIBE THE CONCERN THAT HAS BEEN RAISED BY RESA AND NRG REGARDING THE ALLOCATION OF OVERHEAD COSTS TO DEFAULT SERVICE.

A. Although the Companies incur substantial costs in providing default service, they have regulated distribution businesses that absorb many of those costs, effectively cross-subsidizing their default service offerings. Today, the Companies are recovering no overhead or indirect costs that each of them incurs on a Company-wide basis to provide distribution service as an EDC and default service as a DSP through the rate for default service. All of these costs are recovered through their monopoly distribution rates. If EDCs remain in the DSP role, it is critical that the default service rate actually reflects the costs that an EDC is incurring to provide default service so that the competitive market functions properly and delivers the benefits of a robust market to consumers. Therefore, I recommend that the Commission pursue these issues through a statewide proceeding and require EDCs in future proceedings to propose the allocation of indirect costs to the default service rate.[62]

Q. WHAT ARE THE OTHER PARTIES' POSITIONS ON THIS RECOMMENDATION?

A. Through Rebuttal Testimony of Ms. Larkin, the Companies oppose the proposal of RESA and NRG for the examination of the allocation of overhead costs between default service and distribution service. In support of this view, Ms. Larkin suggests that: (i) the Commission has previously approved the Companies' default service rate design; (ii) default service and distribution service are not two separate businesses; (iii) when costs

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[62] RESA/NRG Statement No. 1 at 42-43, 45.

are incurred to directly fulfill default service obligations, they are recovered through the default service rate; (iv) the Companies' default service is not competing with EGSs; and (v) NARUC guidelines are inapplicable.[63] Other parties likewise disagree with the need for an examination of this issue, although Mr. Knecht on behalf of OSBA acknowledges the importance of an honest accounting of the EDC's costs of providing default service.[64]

Q. PLEASE RESPOND.

A. The Commission's prior approval of the Companies' default service rate design does not mean that the approved components should remain in place indefinitely. In fact, the elements of default services have been adjusted on several occasions over the past decade or so.[65] Moreover, as explained by Frank Lacey in articles published in *Public Utilities Fortnightly* and *Electricity Journal*, regulators have been inappropriately permitting utilities for decades to omit indirect or overhead costs from default service pricing. One of the challenges is that default service rate design is established in DSP proceedings, while the cost of service data needed to correctly allocate indirect costs to the default service rate is available in the utilities' base rate proceedings. RESA and NRG are not aware of a prior default service proceeding in which any parties raised an issue about the proper allocation of indirect costs. Therefore, Commission approval of default service rate design has not considered whether any of the indirect costs incurred by the Companies were recovered through default service rates.

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[63] Companies' Statement No. 5R at 2-8.

[64] OCA Statement No. 2R at 4; OSBA Statement No. 1-R at 4; CAUSE-PA Statement No. 1R at 7-9.

[65] *See, e.g.*, *Petition of Metropolitan Edison Company for Approval of a Default Service Program for the Period Beginning June 1, 2019 through May 31, 2023*, Docket No. P-2017-2637855 (Order entered September 4, 2018).

As to Ms. Larkin's contention that distribution and default service are not separate businesses operated by the Companies, the construct of the Customer Choice Act places two separate and distinct responsibilities on the Companies – of *delivering* electricity to all customers on their distribution systems and of *supplying* electricity to customers on their distribution systems who do not purchase generation services from EGSs. These two duties fulfilled by the Companies are subject to different regulatory requirements. The Customer Choice Act preserves the regulation of distribution service "as a natural monopoly subject to the jurisdiction and active supervision" of the Commission.[66] As such, in their role as EDCs, the Companies are required to comply with various portions of the Public Utility Code, including Chapters 11 (authority to provide service), 13 (just and reasonable rates) and 15 (adequacy of service). By contrast, the law provides that the generation of electricity will no longer be regulated as a public utility function except for specified limited exceptions.[67] In addition, the Customer Choice Act establishes the EDCs' obligations to provide default service and sets forth the various requirements that must be followed.[68]

With respect to Ms. Larkin's testimony concerning the recovery of costs that are incurred to directly fulfill default service obligations through the default service rate, this statement misses the point. RESA and NRG understand that when costs, such as information technology costs, are incurred in connection with a change to the default service program, the Companies recover them through the default service rate. Our point is that the Companies incur indirect costs everyday across their businesses that are not

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66 66 Pa.C.S. § 2802(16).

67 66 Pa.C.S. § 2802(14).

68 66 Pa.C.S. § 2807(e).

directly attributable to either distribution or default service but are allocated wholly to distribution service.

Further, I disagree with Mr. Larkin's claim that the Companies' default service is not competing with EGSs' generation supply services. To the contrary, PaPowerSwitch.com, utility bills and Commission decisions consistently compare EGS pricing to EDC default service rates.[69] This shows that EGSs are competing against default service when in a truly competitive market, they should be competing against each other.

As to Ms. Larkin's contention that the NARUC Guidelines are not applicable to default service, my Direct Testimony recognizes their applicability to affiliate transactions. The NARUC Guidelines are relevant because the default service businesses operate like an affiliate in the market, even if the Companies have not chosen to formally structure them as separate corporate affiliates. That is especially the case because, in defining distribution service as a "natural monopoly," the legislature cannot simultaneously have meant that an electric generation service like DSP was part and parcel of that monopoly; clearly it was not by dint of the legislature's declaration that it should be competitive. The fundamental premise of the NARUC Guidelines is to ensure the competitiveness of markets and to prevent subsidization between different businesses of utilities.[70]

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69 *See, e.g.*, Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan, Docket No. I-2011-2237952 (Order entered March 2, 2012, at 6, 14, 20, 31); https://www.papowerswitch.com/about-switching-electricity/how-to-choose-a-supplier/#

70 RESA/NRG Statement No. 1 at 52-53.

B. Use of Misnomer "Price to Compare"

Q. PLEASE DESCRIBE THE RESA AND NRG PROPOSAL CONCERNING THE CONTINUED USE OF THE TERM "PRICE TO COMPARE".

A. Unless or until the accurate pricing of default service is addressed the Commission should dispense with the misnomer – "Price to Compare" or PTC.[71]

Q. WHAT ARE THE OTHER PARTIES' POSITIONS ON THIS RECOMMENDATION?

A. On behalf of OCA, Mr. Ogur advocates for continuing to use the term "PTC" because it is a logical starting place for judging the value of an EGS product.[72]

Q. HOW DO YOU RESPOND?

A. Comparisons between the EDC's default service rate and EGS supply prices in the market are meaningless for reasons noted above. Mr. Ogur's testimony actually makes my point that EGSs are competing with the EDC's default service. Therefore, the Commission should discontinue use of the nomenclature "Price to Compare" and seek to ensure that the competitive market is structured in a way that promotes competition among EGSs. The price charged by the EDC, acting as DSP, for electricity should simply be referred to as the "default service rate."

C. Semi-Annual Adjustments

Q. PLEASE DESCRIBE THE POSITION ADVANCED BY RESA AND NRG IN RESPONSE TO THE COMPANIES' PROPOSAL TO TRANSITION FROM QUARTERLY ADJUSTMENTS TO SEMI-ANNUAL ADJUSTMENTS IN THE DEFAULT SERVICE RATE.

A. RESA and NRG oppose the Companies' proposal to shift from quarterly to semi-annual adjustments in the default service rate. The Companies' rationale for this proposed

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71 RESA/NRG Statement No. 1 at 54.

72 OCA Statement No. 2R at 9-10.

change is to smooth out fluctuations in default service rates and send clearer price signals to customers and EGSs. As I explain in my Direct Testimony, neither of these justifications warrants the Companies' proposal to transition from quarterly to semi-annual adjustments. To the contrary, a quarterly adjustment in default service rates results in more reflective rate, and customers seeking price stability are free to opt for an EGS product. Therefore, I recommend that the proposal be rejected.[73]

Q. HOW DID PARTIES RESPOND TO THIS RECOMMENDATION?

A. On behalf of the Companies, Dr. Reitzes and Powers disagree that quarterly adjustment of default service rates would better reflect markets. The basis for their view is that in three of four quarters, changes to each Company's residential default service rate are determined almost entirely by the E-Factor, which reconciles the differences between default service supply costs and billed revenue. Therefore, they believe that quarterly adjustments are largely exposing residential customers to fluctuations in the E-Factor rather than providing clear pricing signals. Dr. Reitzes and Powers opine that if these fluctuations are smoothed out, the default service rate would be more reflective of the projected cost of supply.[74]

Q. DO YOU AGREE?

Let me first say that if Dr. Reitzes and Powers' argument here is accepted, then the argument I propound above about discarding "Price to Compare" as a misnomer *should* certainly be adopted. If the "Price to Compare" is not actually a measure of the market's price, but really a reconciliation of unrecovered expenses from the past (or unrebated

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[73] RESA/NRG Statement No. 1 at 55-56.

[74] RESA/NRG Statement No. 4R at 3-5.

collections from the past), then there is seriously something wrong with the way in which default service rates are established. Importantly, the concept of reconciliation runs contrary to the robust functioning of a competitive market. Indeed, the Commission has previously recognized that default service rates inherently pass along false or misleading price signals due to reconciliation.[75]

I do not see how, given the reconciliation mechanism already results in a market price signal distortion, that spreading the cost recovery over a 6-month period will make things any better. It will indeed simply further abstract the default service price signal from the time period during which the costs were incurred. This results in giving customers the false impression that the EDC's default service costs are stable. They are not, and the Commission should not engage in the trickery of the cook who puts the frog in slowly warming water.

The Companies' proposal is also inconsistent with the Commission's prior directives that EDC's default service rate should be market based and accurately reflect all costs of providing default service.[76]

Finally, realizing that parts of this proceeding interact with one another, were the underlying rate design TOU Rates, RESA and NRG would not have a problem with less frequent adjustments since they would inherently be more reflective of market prices at the margin. But a proposal that simply serves to further dampen retail price signals, and alienate them from the actual cost drivers, is simply not appropriate in a construct like Pennsylvania has adopted.

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[75] *RMI End State Order* at 12.

[76] *RMI End State Order* at 41; 52 Pa. Code § 54.187(b).

VIII. CUSTOMER REFERRAL PROGRAMS

Q. PLEASE DESCRIBE THE PROPOSALS SET FORTH BY RESA AND NRG REGARDING THE COMPANIES' CUSTOMER REFERRAL PROGRAMS ("CRPS").

A. Noting the steady decline in enrollment in the CRP over the past years, I offer several recommendations in my Direct Testimony to enhance customer participation, including that: (i) all new customers (who have not already made an affirmative choice of an EGS) be automatically enrolled in the CRP; (ii) the Companies be required to allow online enrollments in the CRP; and (iii) the Companies be required to revisit the situations in which the CRP is mentioned, particularly to default service customers who contact the call center, and to otherwise engage in periodic communications, such as when changes to the default service rates occur, promoting CRP to all customers on default service.[77]

Q. DO THE COMPANIES ACCEPT ANY OF THESE RECOMMENDATIONS?

A. Through the Rebuttal Testimony of Ms. Savage, the Companies indicate that they do not oppose the proposal for online enrollments in the CRP, but note that they would incur an estimated $500,000 to make this change, which would need to be recovered from customers through the default service support riders.[78] As to expanding the scope of calls in which CRP is presented and the automatic enrollment of new or moving customers in CRP, the Companies oppose these recommendations.[79]

Q. PLEASE RESPOND.

A. Particularly given that the Companies do not oppose the proposal for online enrollments in the CRP, this recommendation should be implemented for the reasons I explain in my

[77] RESA/NRG Statement No. 1 at 57-58.

[78] Companies' Statement No. 1R at 10.

[79] Companies' Statement No. 1R at 9-10.

Direct Testimony. Customers can currently sign up electronically for new service from the Companies and the Companies have proposed in this proceeding that customers be able to enroll online in the proposed TOU Rate. During a time when consumers are increasingly dependent on electronic enrollments or registrations for many products and services, they should be permitted to sign up online for the CRP. An added benefit of website enrollments is that since no third-party verification is required, the CRP fee should be waived or reduced.[80] Regarding the Companies' resistance to expanding the scope of calls during which the CRP is raised, RESA and NRG believe that a minimum, the Companies should commit to enhanced communication with customers about the availability of CRP, such as through bill inserts, and by making the link to CRP directly accessible on its their Customer Choice pages.[81]

With respect to automatically enrolling new and moving customers in the CRP, the Companies offered little by way of justification for opposing this proposal.[82] While the Commission may have previously viewed the CRP as being voluntary for both customers and EGSs, the data today suggests that greater participation in the CRP is warranted. Since the CRP has been designed to give customers a 7 percent discount off the Companies' rate for default service, while also introducing customers to participation in the retail market,[83] no reason exists to initially place a customer on default service. Rather, new customers (who have not already made an affirmative choice of an EGS) should automatically receive the benefit of this market enhancement program that has

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80 RESA/NRG Statement No. 1 at 59.

81 RESA/NRG Statement No. 1 at 59-60.

82 Companies' Statement No. 1R at 9.

83 *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952 (Order entered March 2, 2012 at 20-32).

been successful in promoting consumer participation in the market. Importantly, automatically placing these new customers on the CRP also eliminates the notion of the Companies' default service as the "first" service in which consumers enroll. Of note, the Commission has recognized the CRP as an effective way for consumers to participate in the market, while providing them with valuable information about the electric choice program.[84]

IX. OPERATIONAL ISSUES

Q. PLEASE SUMMARIZE THE OPERATIONAL ISSUES RAISED BY RESA AND NRG IN THIS PROCEEDING.

A. EGSs have been experiencing significant delays in receiving customer usage data (of more than 90 days) from the Companies that is needed to prepare and send billing information to the Companies. Under the bill ready approach, EGSs send the supply charges to the Companies for inclusion on bills, which reflect both the EGS prices and the customer's usage. Due to the delays that are occurring, EGSs are unable to send the bill ready supply charges for inclusion on the bills and are not getting timely paid. Although the Companies are exploring solutions to these delays, I recommend in my Direct Testimony that the Companies be directed to revise their Supplier Tariffs to provide a specific timeframe, such as 15 days, for providing usage data to EGSs since it is readily available to the Companies and is needed by EGSs to be paid for the supply service they provide.[85]

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[84] Companies' Statement No. 1R at 5.

[85] RESA/NRG Statement No. 1 at 61-62.

Q. HOW DO THE COMPANIES RESPOND?

A. Through the Rebuttal Testimony of Mr. Strah, the Companies explain the reasons for the delays in transmitting usage data and the actions taken by the Companies to address those delays. However, the Companies disagree with the proposal for revisions to their Supplier Tariffs because of their efforts to resolve these problems.[86]

Q. IS THIS AN ACCEPTABLE RESOLUTION TO RESA AND NRG?

A. No. Because the timely transmission of usage data is critical to the issuance of bills and the receipt of money owed to EGSs for supply service, the Companies' commitment to a resolution of the issue should include a revision to their Supplier Tariffs, such as 15 days unless the circumstances are beyond the Companies' control.

X. CONCLUSION

Q. DOES THAT COMPLETE YOUR SURREBUTTAL TESTIMONY?

A. Yes; however, I reserve the right to supplement this testimony as may be appropriate.

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86 Companies' Statement No. 7R at 3-4.