



AARP Pennsylvania
Harrisburg Office
30 North 3rd Street
Suite 750
Harrisburg, PA 17101

T 1-866-389-5654
F 717-236-4078
TTY 1-877-434-7598
www.aarp.org/pa

July 29, 2011

The Honorable Robert W. Godshall, Chairman
Consumer Affairs Committee
Pennsylvania House of Representatives
PO Box 20253
Harrisburg, PA 17120-2053

RE: Informational Consumer Affairs Committee Meeting on the State of Retail
Competition in the Electric Industry

Dear Chairman Godshall,

On behalf of AARP I extend our appreciation to the House Consumer Affairs Committee for their interest in the state of the retail competition in the electric market. The key to success of the retail market is whether consumers have confidence that shopping will bring them lower prices and fair treatment. Vital to consumer confidence is that they have access to "adequate, reliable, affordable, efficient and environmentally sustainable electric service at the last cost, taking into account any benefits of price stability over time," as ensured by the provisions of Act 129. However, the Public Utility Commission has recently opened Docket I-2011-2237952, Investigation of Pennsylvania's Retail Electric Market, where some parties are proposing radical changes to the state's default service policy. I am attaching for the Committee's information the comments filed by AARP in that docket. AARP's position is that the state's current default service policies are designed to serve the needs of residential customers and these policies should be continued. AARP opposes any changes that would make default service more volatile or that would eliminate the mandate to provide default service at all customers.

Please contact me at 717-237-6482 if you have any questions or would like further information.

Sincerely,

Ray Landis
Advocacy Manager
AARP Pennsylvania

cc: Members of the House Consumer Affairs Committee

Philadelphia Office
T 1-866-389-5654
F 215-665-8529
TTY 1-877-434-7598

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

INVESTIGATION OF
PENNSYLVANIA'S RETAIL
ELECTRICITY MARKET

Docket I-2011-2237952

COMMENTS OF AARP

June 3, 2011

AARP is a nonprofit, nonpartisan membership organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP has members residing in each of Pennsylvania's counties and representing all segments of the socio-economic scale. Moreover, a substantial percentage of AARP's members live on fixed or limited incomes and depend on reliable electric service for adequate heat, lighting, and powering life-saving medical devices. AARP has state offices in each state, the District of Columbia, Puerto Rico and the Virgin Islands

AARP appreciates the opportunity to respond to the Commission's Order adopted on April 28, 2011 seeking public input on a variety of questions concerning the structure of Pennsylvania's retail electric market and, in particular, the policies that should govern default service for residential customers. Our comments reflect the experience of Pennsylvania's residential customers since the adoption of electric restructuring in 1998, which gave them the opportunity to select an alternative supplier for generation supply service. In addition, AARP's comments reflect our knowledge and experience in how restructuring and retail competition have fared for residential customers in other States, including Texas.

Our Comments are organized as follows:

- I. The General Policies that Should Govern Default Service for Residential Customers
- II. The Pennsylvania Retail Market Experience and Results
- III. Response to Specific Questions Posed by the Commission
- IV. The Texas Retail Electric Market Structure and its Relevance to Pennsylvania

I. The General Policies that Should Govern Default Service for Residential Customers

In all states that have restructured their electric utility markets, with the exception of the current situation in Texas, residential customers are assured that electricity will be available to them through default service. Electricity is an essential service that is necessary for health, safety and economic welfare. Therefore, default service (also known as standard offer service) is necessary to ensure consumers have access to stable, reasonable, and affordable electric service when they need it.

With access to stable and reasonably priced default service residential and other customers are then able to shop and compare their default service price (called the Price to Compare in Pennsylvania) with offers made by competitive electricity suppliers. Suppliers are free to offer lower prices, different pricing plans, such as variable prices, or longer term fixed prices, and bundle their offerings with other attributes, such as renewable energy. However, marketers must win their customers based on the products they are selling and the customer's willingness to switch to the new supplier.

AARP supports the development and implementation of a default service policy that emphasizes the "lowest cost" over a reasonable period of time to provide price stability. AARP supports the following policies for default service:

- Default service should be always available to residential customers who for any reason have stopped receiving electricity service;
- Default service should be stable, predictable, and affordable, based on a long-term planning horizon that includes a diverse portfolio of contract terms and cost-effective energy-demand management services to smooth out short-term wholesale market trends where possible;
- Providers should actively manage a portfolio of diverse contract terms and services, integrating energy efficiency and renewable resources where appropriate to achieve this goal;
- Default service should include the same consumer protections that historically have

been provided by traditional electric utility service to these customers prior to restructuring; and

- Prices for default service should be based on least cost procurement.

AARP policy also specifically opposes the linking of default service to very short-term or spot wholesale market prices or other volatile pricing strategies. This approach turns the default service model on its head, attempting to drive customers to the competitive market by making default service an intentionally unattractive choice. That is poor public policy and does not reflect what customers want. On the contrary, there is a growing move by several states, to consider including some longer term contracts in the default supply portfolio, particularly where wholesale market capacity prices are high and there is insufficient investment in new generation to assure reasonably priced electric service.

In addition, with the expansion of the retail market there is the need for additional regulatory oversight on the conduct of marketers and suppliers to residential customers. AARP supports stronger consumer protections concerning door-to-door marketing campaigns in particular and urges the Commission to take into account the experiences in other states that have documented unfair and deceptive practices by some marketers selling electricity or natural gas to lower income and home-bound customers. Finally, any proposals for restructuring reform should be accompanied by an evaluation of the needs of low income customers and consideration of the expansion or implementation of new programs to respond to rising energy prices.

Attached to our comments is a chart summarizing state restructuring policies governing default service and the current status of the retail market experience for residential customers prepared by Barbara R. Alexander, a consultant to AARP. The vast majority of states have

adopted statutory or regulatory policies governing default service that ensures the use of fixed price wholesale market contracts acquired through a competitive process and the use of laddered contracts. AARP has supported efforts to implement longer term default service contracts and a more actively managed portfolio designed to provide stable prices and the lowest price over a reasonable period of time.

AARP supported the provisions of Act 129 in 2008 that repealed previous law tying the price of default service to the “prevailing” wholesale market price. Act 129 ensured consumers in the Commonwealth that they would have access to “adequate, reliable, affordable, efficient and environmentally sustainable electric service at the last cost, taking into account any benefits of price stability over time.” The state’s current default service policies are designed to serve the needs of residential customers and these policies should be continued. AARP recommends that the Commission reject changes that would make default service more volatile or that would eliminate the mandate to provide Default Service at all customers.

II. The Pennsylvania Retail Market Experience and Results

As stated above, AARP supported reforms to the procurement of default service that were adopted in 2008, prior to the expiration of rate caps for most utilities.¹ Act 129 established new policies to govern default service: The default service provider (distribution utility) must submit a plan to acquire generation supply by competitive means to obtain “generation supply at the least cost” and obtain a “prudent mix of contracts to obtain least cost on a long-term, short-term

¹ House Bill 2200 (Act 129, signed by Governor 10/15/08).
Comments of AARP
Docket No. I-2011-2237952

and spot market basis...” Long term is defined as between 4 and 20 years. The statute specifically allows bilateral contracts and long term contracts, as well as other short and medium contract terms. The new law also endorses a variety of competitive acquisition approaches, including auctions, requests for proposals, and bilateral agreements. The default service must be unbundled and change at least quarterly to reflect the underlying contracts.

Most importantly from AARP’s perspective, the original Pennsylvania statutory obligation to acquire default service at “prevailing market prices” was repealed, thus clearly eliminating any suggestion that default service can or should be based on short-term wholesale market prices or that relying on monthly price changes would be appropriate. AARP opposes any attempt to weaken these recent statutory reforms.

In Pennsylvania the incumbent electric distribution utility is the default service provider, but the Commission’s regulations allow for the selection of an alternative provider if the Commission finds that the electric distribution utility can no longer provide service under reasonable rates and conditions. Pursuant to these policies, the distribution utilities have proposed and the Commission has approved multi-year procurement plans. The utilities have also implemented a competitive process to obtain default service supply in the wholesale market.

The result of the state’s current policies is that residential customers both have access to alternative suppliers and the assurance of reasonably priced default service. Under current regulations, competitive offerings for residential customers have grown and a significant increase in residential customer shopping and migration to alternative suppliers has occurred. According to the PA Power Switch website, as of June 1, 2011 38.3% of PPL’s residential customers had selected an alternative provider, as did 18.8% of Penn Power’s residential customers, and 27.7%

of Duquesne Light's residential customers. Clearly, residential customers have demonstrated their willingness to shop and compare prices in the competitive market.

III. Response to Specific Questions Posed by the Commission

In its Order initiating this Investigation, the Commission asked interested parties to respond to the following questions. AARP's responses are listed under each group of questions.

1. What is the present status of competition for retail electric generation for customers, by class and service territory, and for alternative suppliers?

AARP RESPONSE: As indicated in our summary of the Pennsylvania experience above, there is ample evidence that residential customers in Pennsylvania are beginning to shop for electric generation supply and will do so in sufficient numbers to support marketer interest and offers. According to the Office of Consumer Advocate's Price to Compare charts, there are over 20 different EGSs making offered to residential customers of PPL and PECO Energy. Residential customers of PPL² can choose between 23 different suppliers making over 50 different products and offers. These offers range from variable rates to fixed rates for 6 months and multi-year fixed rate options, a variety of renewable energy products, and other contract terms. Based on these figures it cannot be said that the competition rules and default service policies currently in effect in Pennsylvania are not working.

² <http://www.oca.state.pa.us/Industry/Electric/elecomp/PPL.pdf>
Comments of AARP
Docket No. I-2011-2237952

2. Does the existing retail market design in Pennsylvania present barriers that prevent customers from obtaining and suppliers from offering the benefits of a fully workable and competitive retail market? To the extent barriers exist, do they vary by customer class?

AARP RESPONSE: No. The “benefits” of the market are that consumers have access to services they desire at reasonable prices. All consumers in Pennsylvania have access to competitive retail service. There is no barrier in the current market for competitive suppliers to obtain a license from the PUC and market their products and services to customers. Indeed, there are numerous providers in the market today. Default service is one option that is available for consumers to choose.

AARP does not agree that the market for electric generation supply services should be defined merely by the customer migration rate. To do so is to assume the market exists to serve companies, not consumers. Consumers who chose default service should not be considered uninformed, unenlightened or in any way “bad” consumers. Everyone has been marketed to and everyone who is taking default service has chosen not to switch providers. The state should honor their choice.

If there are barriers to choice, they are around consumer protections with respect to the need for more oversight and regulation of certain marketing

practices, such as door-to-door sales methods. When consumers have confidence in the market and marketers, they are more likely to shop for alternative service.

3. What are the economic and managerial costs associated with electric distribution companies (EDCs) fulfilling the default service role? Are the EDCs accurately passing those costs along to default service customers? Do default service rates include any elements that are not cost-based? Is an examination of distribution rates needed to ensure proper cost allocation? Are there barriers to competition as a result of having EDCs provide default service?

AARP RESPONSE: AARP assumes that because the Commission reviews and approves both distribution charges and the portfolio plan pursuant to which the EDC obtains default service that it is able to ensure that all rates paid by consumers are just and reasonable and follow proper cost allocation. AARP is not aware of any elements of the default service rates that are “not cost-based” since the EDC is required to document any incremental administrative costs incurred in order to implement their approved default service procurement plan.

Finally, AARP is concerned about the form of the last question in this group, referring to “barriers to competition” when the EDC performs its default service function. There is no “barrier” to competition when an EDC performs its statutory duty and the Commission regulates that duty to ensure that this function is performed properly and at least cost. Utilities that have the responsibility for

default service have to stand ready to serve any and all customers. They cannot pick and choose as competitive suppliers can. Clearly, utilities operate at a disadvantage in this regard. Furthermore, competitive suppliers can alter their prices at will, go out of business, and include numerous contract terms designed to prevent customers from leaving at will, such as early termination fees and other charges that utilities cannot impose on their customers without regulatory approval. Most important, default service should be viewed in terms of how it serves consumers, not its impact on other companies.

4. Are there unintended consequences associated with EDCs providing default service, and related products, such as time-of-use rates?

AARP RESPONSE: AARP agrees that when the statute requires that EDCs implement efficiency and demand response programs that are paid for through distribution or base rates, including smart metering investments, there is an insertion of the utility into programs that directly impact and are designed to impact generation supply prices. However, this approach reflected in Pennsylvania's law is typical of other restructuring states, as well as the Texas market. Clearly, policymakers in most states have declined to rely on the competitive retail market to ensure that energy efficiency, smart grid and smart meter investments, as well as demand response programs to take advantage of the new metering systems, will be implemented. State legislators have routinely

linked such mandates to the “regulated” utility distribution function and rate structure in restructuring states.

AARP opposes time-of-use rates as default service. Default service should be a straightforward, fixed price service that offers price stability at reasonable rates. Time of use rates and other dynamic pricing and demand response options are best left to the market where consumers are given a choice to participate, or not, in such pricing plans.

5. Should default service continue in its current form? Does default service impede competition or otherwise prevent customers from choosing electricity products and services tailored to their individual needs? Does default service provide an advantage to the incumbent EDC and/or its generation affiliate(s)?

AARP RESPONSE: Yes, the current default service policies and regulations should remain in place without any significant change. Default service does not impede competition. Rather, it is exactly the opposite. Default service or the Price to Compare is the basis for competitive suppliers to make offers to customers that would provide additional value, however that is defined, for individual customers. Suppliers have a clear target to price their products. The Pennsylvania experience to date demonstrates that suppliers will make offers under the current policies and that customers will choose those offers.

There is no evidence that AARP is aware of to show that an EDC's generation affiliates have obtained or can exercise any market power in the acquisition of default supply since those generation affiliates operate in the same wholesale market and under the same rules and policies that govern any generation supplier who seeks to bid to provide default service. If there is a defect in this system, it lies in the wholesale market and the Commission should pursue this matter with the regional operator, PJM Interconnection, and the Federal Energy Regulatory Commission.

6. Can/should the default service role be fulfilled by an entity, or group of entities, other than the EDC? If the default service role should be filled by an entity other than an EDC, what mechanisms could be employed to transition the default service role away from the EDC and onto competitive electric generation suppliers (EGSs)? Are different approaches appropriate for different customer classes? What criteria should be used to ensure that EGSs are qualified to assume the default service role and maintain reliable service?

AARP RESPONSE: AARP does not believe there any benefits to customers or other results that would exceed or justify the costs associated with eliminating the EDC from the default service role and transitioning customers without their affirmative consent to an EGS providing default service. Since the EDC has implemented the statutory and regulatory policies without mark-up or profit,

AARP is not aware of any EGS that would perform this function without the potential of earning a profit on this service that would be provided to default service customers who can come and go at will. Furthermore, an EGS that seeks to perform this function can file an application to do so under the current regulations. If an EGS can better the EDC default service in terms of price and costs, it could file such an application that should be carefully scrutinized by the Commission. However, sending consumers to a more costly and/or less stable default service option –or taking away default service altogether—simply to stimulate the market would turn consumers into the victims, rather than beneficiaries, of the restructured market.

7. How can Pennsylvania's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electricity market? Are there additional market design changes that should be implemented to eliminate the status quo bias benefit for default service?

AARP RESPONSE: While the nature of the service that is provided for default electric service certainly varies among the states, AARP strongly opposes any suggestion that would eliminate default service or force customers to choose an alternative supplier or give customers to an alternative supplier without prior affirmative customer choice for essential electricity service. What the question describes as “status quo” is the ability of consumers to choose a rate plan which

reflects stable prices and has been reviewed by this Commission. Pennsylvania law, as well as the restructuring mandates in every state, including Texas, created a “status quo” bias for residential customers as part of their restructuring laws. There is no state in which customers for essential electricity service have been “forced” to choose an alternative supplier or transferred without their affirmative consent to another supplier. The result would be harmful to many customers and it would implement an approach that consumers do not want. Basic electricity service is a necessity and the failure to provide this service at a reasonable price carries dire consequences for health and safety, particularly for older Americans, those who are disabled, families with young children, and those who rely on medical devices powered by electricity.

To the extent there are barriers to a fully functioning and robust retail market, AARP submits that these barriers are the lack of adequate consumer protections which would increase consumer confidence in the market and marketers. These include consumer education, standard disclosures in marketing and on bills, “apples to apples” price comparisons, and rules governing EGS marketing practices.

8. *What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?*

AARP RESPONSE: There is no “inherent procurement (or other cost) advantages for the utility.” The default service provider procures power from the same wholesale market as do competitive providers. While the default service provider may have, at this time, economies of scale, it also has to stand ready to serve all customers at any time, which other providers do not.

9. What changes, to Regulations or otherwise, can the Commission implement on its own under the existing default service paradigm to improve the current state of competition in Pennsylvania?

AARP RESPONSE: AARP suggests that the Commission implement the statutory obligations of the current Pennsylvania law to ensure that default service is based on a longer term portfolio of contracts and implement the requirement that the default service portfolio contains a mix of short and long term contracts. More importantly, default service should be managed and implemented to provide long term price stability for residential customers. The Pennsylvania statute does would have to be amended before the Commission could make fundamental change in default service.

10. What legislative changes, including changes to the current default service model, should be made that would better support a fully workable and competitive retail market?

AARP RESPONSE: AARP supports the current statutory policies and will oppose any changes recommended to those policies that would result in deterioration in existing consumer protections, make default service more volatile, make price changes more frequent, rely on variable as opposed to fixed price service, or eliminate the EDC role as the ultimate provider of default service.

11. Are there, or could there be, potential barriers being created by the implementation of the EDC Smart Meter plans?

AARP RESPONSE: As noted above, implementation of smart grid and smart metering investments under the current Pennsylvania smart metering statutory mandate imposes an obligation on the EDCs to deploy smart meters and to recover costs through a surcharge mechanism or base rates. Customers cannot avoid paying for these costs by selecting an EGS.

IV. The Texas Retail Electric Market Structure and its Relevance to Pennsylvania

It is apparent from the agenda for the En Banc hearing next week that there is interest on the Commission in the Texas retail competition market model. As a result of the experience of our members and our familiarity with the implementation of this market model, AARP offers the following comments and background information. While Texas demonstrates the highest level of customer migration compared to other states, its market structure is unique and cannot be

implemented in Pennsylvania without significant statutory changes. Furthermore, moving to a Texas model carries with it significant costs of implementation. Moreover, due to price increases, additional fees and marketing practices the Texas market structure has not benefited residential customers and has had a particularly adverse impact on lower income customers. Prior to deregulation residential electricity rates in Texas were consistently below the national average. Today they are consistently higher than the national average. A recent study sponsored by a coalition of Texas Cities also found that residential customers in the deregulated portions of Texas consistently pay higher rates than Texans who reside in areas of the state that are not under deregulation.³

The Texas electric restructuring statute was enacted in 1999 (Senate Bill 7, amending the Public Utility Regulatory Act (PURA), §39.101, et seq.) and called for the implementation of retail electric competition for all customers⁴ beginning January 1, 2002. As part of the restructuring legislation, the former electric utilities agreed to a structural separation in which their generation assets were either sold or transferred to a separate corporation. The distribution service function is performed by a “regulated” entity, but performs no direct retail services. Rather, the distribution utility operates the poles and wires, maintains reliability of service, and handles meter and field (i.e., disconnect/connection) operations. The distribution utility services

³ See “The Story of ERCOT” by the Texas Coalition for Affordable Power, February, 2011
<http://tcaptx.com/downloads/THE-STORY-OF-ERCOT.pdf>

⁴ The Texas restructuring statute mandated restructuring only for those utilities operating in the wholesale market subject to the Texas PUC’s jurisdiction (ERCOT). The other public utilities have the option to file for restructuring, but most have not done so due to the high transition costs. Furthermore, the municipal utilities in Texas were also not required to adopt the Texas version of restructuring and those entities have also declined to implement restructuring and retail competition.

are provided to Retail Electric Providers (“REPs”) under rates regulated by the Public Utility Commission.

Under the Texas approach, customers obtain retail electricity service directly from a REP. The REP has the sole retail relationship with its customers and will obtain the necessary distribution services from the former public utilities and generation service from the wholesale market. The REP is responsible for all of the necessary interactions with customers, including application for service, customer service, call centers, billing, and collection (although the REP uses the distribution utility to perform field operations for disconnection of service, installing meters, etc.). REPs are licensed by the Public Utility Commission of Texas and subject to consumer protection regulations, but the general trend of these regulations has been to lessen the consumer protections that were originally adopted at the onset of restructuring.

As a transition mechanism, the former utilities were required to create an “affiliate” REP to interact with their retail customers (referred to as “AREP”). From January 1, 2002 until January 1, 2007, the A REP assumed the retail electric service obligations of the former utility under the *Price to Beat*, a default service that was required to be provided to residential customers. Since January 1, 2007, there has been no “default service” as that term is used in other states to refer to a service that is available to all customers provide pursuant to a regulated policy or program. Texas has a Provider of Last Resort Service; however, POLR is a short term service that is designed for customers of failed REPs. REPs bid to provide POLR service is priced at a premium of 130% to 135% over monthly wholesale market prices (current POLR prices range from 13.6 cents/kWh to over 20 cents/kWh). Customers on POLR service can be disconnected for several reasons, including failure to make a security deposit and also for non-

payment. The POLR model currently in place in Texas is fundamentally different from default service. Therefore, Texas consumers do not have the same access to adequate, reliable, affordable and stable electric service as Pennsylvanians are guaranteed by statute.

It should also be noted that at no time were Texas residential customers ever transferred to a REP other than their former utility acting as the “affiliate” REP and that other REPs have been required to obtain new customers through marketing and solicitation on a one-to-one basis. According to the Texas Commission as of the first quarter of 2011, 53.3% of all residential customers are taking electric service from a REP other than their former “affiliate” REP. This means that 46.7% of the customers have remained with, returned to, or established new service with the former incumbent utility.

Another aspect of the Texas restructuring model that is unique is the role played by the Electric Reliability Council of Texas (“ERCOT”). The wholesale power market in most of Texas is under the control of the Texas PUC and not subject to the jurisdiction of the Federal Energy Regulatory Commission. In fact, only those areas of Texas that are within ERCOT are subject to deregulation, while other parts of the state continue to regulate electricity rates. ERCOT plays a key role in retail competition, as well as its paramount role in assuring that generation supply meets the actual load and regulates the price of transmission service in the Texas wholesale market. ERCOT provides the retail customer database (it is actually a meter database, each of which has a unique identifier and is linked to a particular customer for billing purposes) for all REPs and supplants the role typically played by the local distribution utility in most states to implement customer access to competitive providers. Under the Texas approach, a customer selects a REP who then submits a switch order to ERCOT, which then implements that

switch. The costs to operate ERCOT are paid for by all customers in the ERCOT service area and currently consists of a system administration fee of \$0.4171 per MWh (2011) and a surcharge of \$0.375 per MWh will also remain in effect in 2011 to pay for the move to nodal pricing in the wholesale market. These costs are passed on to retail customers through fees on their bills.

Finally, it is important to note that efficiency programs are funded through distribution rates (reflected in the price for these services paid by REPs) and that the T&D utilities then fund efficiency programs through REPs. Similarly, the smart metering deployment mandate in Texas is a requirement imposed on the T&D utilities and funded through a regulated surcharge mechanism paid for by all REP customers. The customer costs for smart metering in Texas are not insignificant. According to the Texas PUC's most recent report⁵, the per-customer surcharge ranges from over \$2 to \$3 dollars per month. As a result of these mandates, Texas resembles other restructuring states in that there is little or no reliance on the competitive market to fund a base level of energy efficiency programs or smart metering deployment.

As stated above, residential rates in the deregulated areas of Texas have risen above the national average, when Texas rates were previously lower than the national average. In addition, Texas REPs have devised and include numerous fees and charges as part of their Terms and Conditions and that are not included in their quoted price for electric service. A recent study⁶ has found that REPs seeking customers in the Oncor service area (one of the largest distribution areas in Texas) include a number of fees in their Terms and Conditions of Service that would

⁵ Texas PUC, *Report to the Legislature on Advanced Metering* (September 2010), Appendix G.

⁶ Biedrzycki, Carol, **New Fees On Residential Electric Bills Complicate Cost Comparisons For Consumers Shopping For A Better Deal And Penalize Those Who Save Electricity And Those Struggling To Pay Their Bill**, Texas ROSE, February 23, 2011.

Comments of AARP

Docket No. I-2011-2237952

substantially reduce or completely offset any advertised savings that might have induced a customer to choose that rate plan. According to the report examples of these fees include:

Minimum Usage – A minimum usage fee refers to a fee added to a bill if the customer's kWh use for the month drops below a certain amount. Also included in this category are discounts given to customers whose usage exceeds a certain number of kWh.

Disconnect Reconnect – Most REPs charge fees in addition to the fees charged by the transmission and distribution utilities (TDU) that are related to disconnection and reconnection.

Payment Processing – A fee charged by the REP for accepting certain forms of payment from the consumer. This may include fees for making credit card payments over the phone to the customer service center and charges for internet payments.

Contract Termination Fee – The amount a customer is charged if the contract is voluntarily ended by the customer prior to the expiration date. All of the fixed price plans charged a fee for early termination. Some REPs charge a prorated fee. Most REPs charge a flat fee ranging from \$49.99 to \$299 .

Return Payment – The return payment fee represents charges for returned checks and rejected electronic or credit card payments and is frequently referred to as NSF (not sufficient funds).

Late Payment – The late payment is the fee charged to consumers on bills paid after the due date (16 days after the bill is issued). The late fee is 5% for all REPs as set by PUC rule. However, some REPs add additional fees.

The Texas market model would require the Pennsylvania Commission to significantly expand its role in developing consumer protection regulations to govern marketing conduct and required disclosures to customers, particularly if entities other than the distribution utility were to take over billing and collection activities. For example, the Texas Commission received 28,500 electric complaints from September 2008 through August 2009. During the period from January 2009 through December 2010, the Texas Commission assessed over \$9.8 million in penalties to electric market participants, of which \$4.5 million was for retail marketing activity, \$1.7 million

for service quality violations, and \$3.6 million for wholesale market violations. In total during 2009 and 2010, Commission Staff opened 136 investigations for the electric industry and closed 99 investigations.⁷ This level of customer dissatisfaction stands in contrast to the complaint activity handled by the Pennsylvania Commission. According to the 2010 Utility Consumer Activities Report and Evaluation,⁸ the Commission's Bureau of Consumer Services received 4,834 complaints from residential customers concerning electric service and 11, 678 complaints from residential customers concerning all utility services (electric, natural gas, telephone, and water) regulated by the Commission.

Based on our experiences in Texas, AARP cannot recommend that this market model would be appropriate for consideration in Pennsylvania. The Texas model would be costly to implement, and most important, does not ensure residential customers have access to stable, reasonable, and affordable electric service when they need it. AARP stands ready to work with the Commission and stakeholders to further strengthen default service and the essential consumer protections that will enhance consumers' ability to make informed choices in the market.

⁷ Texas PUC, 2011 Scope of Competition Report at 30.

⁸ Available at: http://www.puc.state.pa.us/general/publications_reports/pdf/UCARE_2010-4Q.pdf
Comments of AARP
Docket No. I-2011-2237952

