



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

January 27, 1999

To: All Electric Distribution Companies and Licensed Electric Generation Suppliers

Re: Standards for Electronic Data Transfer and Exchange Between Electric Distribution Companies and Electric Generation Suppliers;  
Docket No. M-00960890, F.0015

Through the Phase-In Committee, the Commission has become aware of the desire of several electric distribution companies (EDCs) and electric generation suppliers (EGSs) to enter into trading partner agreements relating to the electronic exchange of data. A sample agreement, which was developed after several weeks of negotiations among PIC members, has been submitted for our review. Although the language in the sample agreement reflects the general consensus of the PIC, the Commission understands that there is not unanimous support within the PIC for this document. Also, the Commission realizes that some EGSs have not participated in this process and are likely not aware of the terms and conditions of the sample agreement.

A trading partner agreement establishes the rights and obligations of each party participating in an electronic transaction. For instance, the sample agreement requires each trade partner to maintain system operations necessary to effectively transmit and receive electronic data, to use acceptable security procedures, to use reasonable efforts to ensure that electronic transactions are free from computer viruses, and to take necessary Year 2000 compliance measures. We note that these provisions appear to protect both trade partners as data is electronically exchanged. As we understand, these types of agreements are routinely executed as part of standard business practice among entities who electronically exchange data.

The terms and conditions of the sample trading partner agreement submitted by the PIC appear to be reasonable. The Commission is satisfied that the agreement contains sufficient assurances that appropriate measures will be taken by both trade partners to ensure the reliable and effective exchange of electronic data. Additionally, we observe that the sample agreement recognizes the need for consistency with Commission orders and specifically references the fact that any disputes regarding the applicability of the agreement will be resolved by giving precedence to Commission orders. Therefore, we expressly endorse the use of the attached sample trading partner agreement by EDCs and EGSs for the purpose of exchanging electronic data as part of the retail electric choice program.

Very truly yours,

James J. McNulty  
Secretary

**ELECTRONIC DATA INTERCHANGE (EDI)  
TRADING PARTNER AGREEMENT** (12/21/98)

THIS ELECTRONIC DATA INTERCHANGE TRADING PARTNER AGREEMENT (the "Agreement") is made as of December \_\_\_\_, 1998, by and between \_\_\_\_\_, a \_\_\_\_\_ corporation and an Electric Distribution Company ("EDC") with offices at \_\_\_\_\_, and \_\_\_\_\_ an Electric Generation Supplier ("EGS"), a \_\_\_\_\_ corporation with offices at \_\_\_\_\_, individually a "Trade Partner" and collectively Trade Partners.

### **RECITALS**

**WHEREAS**, EDC and EGS desire to facilitate the exchange of business Electronic Transactions by electronically transmitting and receiving data in agreed upon formats and to ensure that such Electronic Transactions are legally valid and enforceable.

**NOW THEREFORE**, in consideration of mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties, intending to be legally bound hereby, hereto agree as follows:

### **Section 1. Prerequisites**

1.1 Electronic Transactions. Each Trade Partner may electronically transmit to or receive from the other Trade Partner certain specified Electronic Transactions approved in an Order of the Pennsylvania Public Utility Commission ("PaPUC"). By written agreement, the Parties may conduct other Electronic Transactions. An Electronic Transaction is the specific message format exchanged between originator and recipient, usually an electronic message sequence which relates to a specific type of paper business document. Electronic Transactions shall be transmitted in accordance with the standards and appropriate industry guidelines approved by the PaPUC, as the same may be amended from time to time. See Appendix A for a nonexclusive list of related documents.

1.2 Scope of the Agreement. This Agreement shall govern and apply only to Electronic Transactions transmitted from either Trade Partner to the other in connection with the Pennsylvania Electric Choice program.

1.3 Third-Party Service Providers.

1.3.1 Electronic Transactions will be transmitted electronically to each Trade Partner either directly or through any third Trade Partner service provider ("Provider") with which either Trade Partner may contract on its own behalf. Either Trade Partner may modify its election to use, not use or change its Provider upon 30 days prior written notice.

1.3.2 Each Trade Partner shall be responsible for the costs and performance of any Provider with which it contracts, unless otherwise set forth in a PaPUC Order.

1.3.3 Each Trade Partner shall be liable for the acts or omissions of its Provider while transmitting, receiving, storing or handling documents, or performing related activities, for such Trade Partner; provided, that if both the parties use the same Provider to effect the transmission and receipt of a Document, the originating Trade Partner shall be liable for the acts or omissions of the Provider as to such Document.

1.4 System Operations. Each Trade Partner, at its own expense, shall be responsible for and/or provide and maintain the equipment, software, services and testing necessary to effectively and reliably transmit and receive Electronic Transactions.

1.5 Security Procedures. Each Trade Partner shall properly use those security procedures, including those specified by the PaPUC, if any, which are reasonably sufficient to ensure that all transmissions of Documents are authorized and to protect its business records and data from improper access.

1.6 Signatures. Each Trade Partner shall adopt as its signature an electronic identification consisting of symbol(s) or code(s) which are affixed to or contained in each Document transmitted by such Trade Partner ("Signatures"). Each Trade Partner agrees that any Signature of such Trade Partner affixed to or contained in any transmitted Document

shall be sufficient to verify such Trade Partner originated such Document. Neither Trade Partner shall disclose to any unauthorized person the Signatures of the other Trade Partner.

1.7 Freedom from Computer Viruses. Trade Partners shall use reasonable efforts to ensure that Electronic Transactions are free of, but not limited to, the following: computer viruses, back door, time bomb, Trojan Horse, worm, drop dead device or other computer software code or routine designed to disable, damage, impair or electronically repossess or erase programs or data files which can cause damage to a Trade Partner's computer systems and/or operations. Either Trade Partner will promptly notify the other if such Destructive Logic is detected in and/or transmitted from any computer system involving Electronic Transactions.

1.8 Year 2000 Compliance. Trade Partners agree that, prior to January 1, 2000 and with a reasonable time to insure adequate testing, their respective Electronic Transactions shall be capable of accurately processing, providing and/or receiving (including but not limited to, calculating, comparing and sequencing) date data from, into and between the twentieth and twenty-first centuries and the years 1999 and 2000, and will correctly create, store, process and output information related to or including dates on or after January 1, 2000. Such changes to Electronic Transactions will be subject to the testing requirements identified by the PaPUC.

1.9 Back-up Data. Trading Partners agree to maintain adequate back-up files to recreate transmissions as required. Back-up files shall be subject to this Agreement to the same extent as original data. Electronic Transactions shall be retained for such periods as required by relevant state and federal requirements.

1.10 Testing.

1.10.1 Electronic Transactions will not be authorized by either Trading Partner until subjected to reasonable testing to ensure compliance with PaPUC Orders.

1.10.2 Following acceptance for production use, additional testing may be required by a Trade Partner in response to a change in the system environments including, but not limited to: installation of new application system, installation of a new EDI translator, changes made for Year 2000 compliance or implementation of a new EDI version. Additional Testing shall adhere to the standard testing procedures determined by the PaPUC.

## **Section 2. Transmissions.**

2.1 Proper Receipt. Documents shall not be deemed to have been properly received, and no Document shall give rise to any obligation, until accessible to the receiving Trade Partner and Verification confirmed in accordance with standards specified in PaPUC Orders.

2.2 Verification. Upon proper receipt of any Electronic Transaction or any information related to the Electronic Transaction, the receiving Trade Partner shall properly transmit a functional acknowledgment ("FA") in return, in standard format, within the time frame specified by the PaPUC. An FA shall constitute conclusive evidence that an Electronic Transaction has been properly received. An FA is not an acceptance or a status report.

2.3 Responses. If a Response to an Electronic Transaction is required by the PaPUC, any such Electronic Transaction which has been properly received shall not give rise to any obligation unless and until the Trade Partner initially transmitting such Electronic Transaction has properly received in return an Response Transaction.

2.4 Garbled Transmissions. If any properly transmitted Electronic Transaction is received in an unintelligible or garbled form, the receiving Trade Partner shall promptly notify the originating Trade Partner (if identifiable from the received Document) in a reasonable manner. In the absence of such a notice, the originating Trade Partner's records of the contents of such Electronic Transaction shall control, unless the identity of the originating Trade Partner cannot be determined from the received Electronic Transaction.

### **Section 3. Transaction Terms.**

- 3.1 **Terms and Conditions.** Any Electronic Transaction made pursuant to this Agreement and (any related communication) shall also be subject to the terms and conditions included in the EDC's applicable tariffs that may be approved by the Pennsylvania Public Utility Commission (PUC) from time to time. The parties acknowledge that the terms and conditions set forth in the EDCs' tariffs may be or may become inconsistent, or in conflict with this Agreement or, but agree that any conflict or dispute that arises between the parties in connection with any such Electronic Transaction will be resolved as if such Electronic Transaction had been effected through application of the tariffs. Any inconsistency between this Agreement and any PaPUC Orders shall be resolved by giving precedence to the PaPUC Orders and then to this Agreement.
- 3.2 **Confidentiality.** Electronic Transactions and other communications related to Electronic Transactions under the Agreement shall maintain the same confidential or non-confidential status (whichever is applicable) as they would have in the form of paper records.
- 3.3 **Validity; Enforceability.**
- 3.3.1 This Agreement has been executed by the parties to evidence their mutual intent to create binding transactions pursuant to the electronic transmission and receipt of Electronic Transaction information specifying certain of the applicable terms, regarding the regulated Electric Choice program activities of the EDCs and the EGSSs.
- 3.3.2 The parties agree that correspondence and documents electronically transmitted pursuant to this Agreement shall be construed to be in conformance with all requirements set forth in EDC's tariffs and standards as approved by the PaPUC for all purposes.
- 3.3.3 Any Electronic Transaction and any information related to the Electronic Transaction, properly transmitted pursuant to this Agreement, shall be considered to be a "writing" or "in writing" and any such Electronic Transaction when containing, or to which there is affixed, a Signature shall be deemed for all purposes to have been "signed" and to constitute an "original" when printed from electronic files or records established and maintained in the normal course of business.
- 3.3.4 The conduct of the parties pursuant to this Agreement, including the use of Signed Electronic Transactions properly transmitted pursuant to this Agreement, shall, for all legal purposes, evidence a course of performance accepted by the parties in furtherance of this Agreement.
- 3.3.5 The parties agree not to contest the validity or enforceability of Signed Electronic Transactions under the provisions of any applicable law relating to whether certain agreements are in writing and signed by the Trade Partner to be bound thereby. Signed Electronic Transactions, if introduced as evidence on paper in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Trade Partner shall contest the admissibility of copies of Signed Electronic Transactions on the basis that the Signed Documents were not originated or maintained in documentary form.

### **Section 4. Miscellaneous.**

- 4.1 **Headings.** Headings or titles of the provisions hereof are for convenience only and shall have no effect on the provisions of this Agreement.
- 4.2 **Termination.** This Agreement shall remain in effect until terminated by either Trade Partner with not less than thirty (30) days prior written notice, which notice shall specify the effective date of termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under any Electronic Transaction or otherwise under this Agreement prior to the effective date of termination. Any attempted termination in conflict with any Order of the PaPUC shall be deemed ineffective for purposes herein.

- 4.3 Severability. Any provision of this Agreement which is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.
- 4.4 Entire Agreement. This Agreement constitutes the complete agreement of the Trade Partners relating to the matters specified in this Agreement and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. This Agreement may not be amended, supplemented, changed or modified in any manner, orally or otherwise, except by an instrument in writing of concurrent or subsequent date, signed by a duly authorized representative of each Trade Partner. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either Trade Partner. No obligation to enter into any Electronic Transaction is to be implied from the execution or delivery of this Agreement. This Agreement is for the benefit of, and shall be binding upon, the parties and their respective successors and assigns.
- 4.5 Assignment. This Agreement, or any rights or obligations hereunder, shall not be assigned by either Trade Partner without the express written approval of the other Trade Partner; provided, however, that a Trade Partner may assign this agreement, or any of its rights or obligations hereunder, in whole or in part, to any affiliate permitted to perform the respective Trade Partner's responsibilities, by the PaPUC, without the express written approval of the other Trade Partner. Any assignment, which does not comply with the provisions of this section 4.5, shall be null and void.
- 4.6 Non-Waiver. The waiver by either Trade Partner of any breach of any term, covenant or condition contained in this Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other term, covenant, condition or obligation.
- 4.7 Governing Law and Tariffs. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Pennsylvania and EDC's tariffs filed with the PaPUC. This Agreement shall at all times be subject to any changes or modifications by the PaPUC as said Commission may, from time to time, direct in the exercise of its jurisdiction.
- 4.8 Force Majeure. No Trade Partner shall be liable for any failure to perform its obligations in connection with any Electronic Transaction where such failure results from any act of God or other cause beyond such Trade Partner's reasonable control which prevents such Trade Partner from transmitting or receiving any Documents.
- 4.9 EXCLUSION OF DAMAGES. NEITHER TRADE PARTNER SHALL BE LIABLE TO THE OTHER TRADE PARTNER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THE AGREEMENT, ANY ELECTRONIC TRANSACTION OR ANY DOCUMENT INCLUDING, BUT NOT LIMITED TO, ARISING FROM OR AS A RESULT OF ANY DELAY, OMISSION, OR ERROR IN THE ELECTRONIC TRANSMISSION OR RECEIPT OF ANY DOCUMENTS PURSUANT TO THIS AGREEMENT, EVEN IF SUCH TRADE PARTNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 4.10 Resolution of Disputes.
- 4.10.1 In the event of any controversy or claim arising out of or relating to this Agreement, or breach thereof, the parties shall use commercially reasonable judgment to resolve the claim or dispute, initially, through good faith negotiations or upon the failure of such negotiations, through Alternative Dispute Resolution ("ADR") techniques and proceedings.
- 4.10.2 If any controversy, claim, or dispute arising hereunder is not resolved in accordance with Article 4.10.1 above, either Trade Partner may, upon giving the other Trade Partner at least ten (10) days prior written notice, initiate litigation to submit such claims or disputes for decision by a court of competent jurisdiction of the Commonwealth of Pennsylvania in accordance with the laws of Pennsylvania.
- 4.11 Notices. Unless otherwise provided herein, all notices, demands or other communications hereunder shall be in writing and shall be deemed to have been received when personally delivered, when sent by (i) courier delivery; (ii) Federal Express or similar overnight courier delivery; (iii) U.S. certified mail, return receipt requested to the address

and persons specified in this Agreement. Notices or communications shall be deemed given on the date of (a) courier or overnight courier delivery; or (b) in the case of transmittal by U.S. certified mail, return receipt requested, the date the return receipt is signed or delivery is rejected. The following are the primary contacts for all communications related to this Agreement;

4.11.1 Electric Distribution Company:

Company Name: \_\_\_\_\_  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
email: \_\_\_\_\_

4.11.2 Electric Generation Supplier:

Name: \_\_\_\_\_  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
email: \_\_\_\_\_

IN WITNESS WHEREOF, the parties have executed the agreement as of the day and year first above written.

EDC's Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EGS's Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **Appendix A - Related Documents**

The following documents are relevant to the Electronic Transactions to be exchanged. These documents may be revised from time to time. The latest version of each document should be utilized for the most current standards and requirements.

- 1.) Electronic Data Exchange Standards for Electric Deregulation in the Commonwealth of Pennsylvania, Revised Plan by Order of the Pennsylvania Public Utility Commission (Docket No. M-00960890, F.0015), dated September 10, 1998, Version 2.1.
- 2.) Pennsylvania Data Exchange Standards including EDI transaction formats, EDI testing protocols, and Internet Protocol Testing Plan.
- 3.) PA EDI Implementation Guides
- 4.) EDC's Electric Generation Supplier Coordination Tariff.