

CHARGE Conference Call

February 18, 2010 – 9:30 a.m.

Call-in number: 1-866-618-6746 and Access Code: 6060145

Topics of Discussion

1. Budget Billing

- General discussion of status of budget billing for generation charges and availability of waivers
- Longer-term issue referred to Retail Markets Working Group and EDEWG

2. Price/Quotes/Offer from EGSs to Large Commercial and Industrial Customers

- At the last meeting IECPA expressed desire to have large commercial and industrial price quotes/offers from EGSs contain specific components
 - 54.1 requires that information be provided to customers in an understandable format that enables them to compare prices and services on a uniform basis
- Question as to whether IECPA will propose components

3. Confirmation Letters

- Discussion held about standardizing the EDC 10-day confirmation letter to make clear that it is intended to avoid an unauthorized switch and not to provide customer with a penalty-free right to rescind or cancel their EGS contract
- New proposed language submitted to OCMO after call is: **“Your contract with A/S name might have provisions that impact you if you cancel your enrollment.** If you have questions about your enrollment or terms of service with **A/S name**, please contact them at **phone number 1.**”
 - Another suggestion is to change “provisions” to “requirements”
- Status of correcting PPL’s reference on website to rescission during the confirmation period

4. EGS Marketing Activities

- PUC staff continues to receive complaints from consumers about the direct marketing tactics of some EGSs
- OCMO noted that Commission has expressed an interest in developing best practices for EGSs to follow when engaging in direct marketing, such as uniforms, photo IDs, criminal background checks, etc.; input from EGSs about their practices and other states’ models are welcome

- Two proposals have been shared with OCMO as a starting point, NY's standards, which are attached; the other proposal is in draft form and we are checking on when it will be ready to share with the group
- Staff is working on a draft which will be circulated to all participants for comment/discussion

5. 90 Days in Arrears

- Issue was raised during last call about customers who are 90 days in arrears being blocked from switching to an EGS
 - This practice was implemented when EDCs in consolidated billing scenario had to pay EGSs in full irrespective of whether customer paid
 - Practice is no longer necessary under Purchase of Receivables Program
- PPL is eliminating this block and will give a status report

6. Handling of Negative 810s under PPL's POR Program

- Concern has been raised about the handling of negative 810s on a case-by-case-basis because it is resource intensive since many customers might cancel budget billing with a credit or due to a negative cancel/rebill
- Is there a suggestion for a better way of handling negative 810s?

SECTION 10: MARKETING STANDARDS**A. Applicability**

This Section describes the standards that ESCOs and ESCO marketing representatives must follow when marketing to customers in New York.

B. Training of Marketing Representatives

ESCOs shall ensure that the training of their marketing representatives includes:

1. Knowledge of this Section and awareness of the other Sections of the New York Uniform Business Practices;
2. Knowledge of the ESCO's products and services;
3. Knowledge of ESCO rates, payment options and the customers' right to cancel, including the applicability of an early termination fee;
4. Knowledge of the applicable provisions of the Home Energy Fair Practices Act that pertains to residential customers; and,
5. The ability to provide the customer with a toll-free number from which the customer may obtain information about the ESCO's mechanisms for handling billing questions, disputes, and complaints.

C. Contact with Customers**1. In-Person Contact with Customers**

ESCO marketing representatives who contact customers in person at a location other than the ESCO's place of business for the purpose of selling any product or service offered by the ESCO will, as soon as possible and prior to describing any products or services offered for sale by the ESCO:

- a. Produce identification, to be visible at all times thereafter, which:
 1. Prominently displays in reasonable size type face the full name of the marketing representative;
 2. Displays a photograph of the marketing representative and depicts the legitimate trade name and logo of the ESCO they are representing;
 3. Provides the ESCO telephone number for inquires, verification and complaints.
- b. Shall identify the ESCO which they represent as an independent energy marketer, and shall identify him or herself as a representative of that specific ESCO. During the sales presentation, the marketing representative must also state that if customer purchases natural gas and/or electricity from the ESCO, that the customer's utility will continue to deliver their energy and will respond to any leaks or emergencies. This requirement may be fulfilled either (a) by an oral statement by the ESCO marketing representative, or (b) written material left by the ESCO marketing representative. Further, ESCOs that are affiliates of distribution utilities should not describe or disclose their relationship to the distribution utility unless such information is specifically requested by the customer.

- c. An ESCO marketing representative shall leave the premises of a customer when requested to do so by the customer or the owner or occupant of the premises.
- d. An ESCO marketing representative will provide the customer with written information regarding ESCO products and services immediately upon request which shall include the ESCOs name and telephone number for inquiries, verification and complaints.
- e. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the ESCO representative or where the customer or another third party informs the ESCO marketing representative of this circumstance, the ESCO marketing representative shall either find a representative in the area who is fluent in the customer's language to continue the marketing activity in his/her stead or terminate the in-person contact with the customer. The use of translation services and language identification cards is permitted.

2. Telephone Contact with Customers

ESCO marketing representatives who contact customers by telephone for the purpose of selling any product or service offered by the ESCO shall:

- a. Provide the ESCO marketing representative's first name and, on request, the identification number;
- b. State the name of the ESCO on whose behalf the call is being made;
- c. Never represent that the ESCO marketing representative is an employee or representative or acting on behalf of a distribution utility. In addition, the ESCO marketing representative must clearly indicate that taking service from an ESCO will not affect the customer's distribution service and such service will continue to be provided by the customer's distribution utility;
- d. State the purpose of the telephone call;
- e. Where it is apparent that the customer's English language skills are insufficient to allow the customer to understand and respond to the information conveyed by the ESCO representative or where the customer or another third party informs the ESCO marketing representative of this circumstance, the ESCO marketing representative will immediately transfer the customer to a representative who speaks the customer's language, if such a representative is available, or terminate the call; and,
- f. Remove Customers' names from the marketing database upon Customers' request.

3. Conduct

ESCOs shall:

- a. Not engage in misleading or deceptive conduct as defined by State or federal law, or by Commission rule, regulation or Order;
- b. Not make false or misleading representations including misrepresenting rates or savings offered by the ESCO;
- c. Provide the customer with written information, upon request, or with a website address at which information can be obtained, if the customer requests such information via the internet;

- d. Use reasonable efforts to provide accurate and timely information about services and products. Such information will include information about rates, contract terms, early termination fees and right of cancellation consistent with Section 2 of the UBP and any other relevant Section;
- e. Ensure that any product or service offerings that are made by an ESCO contain information written in plain language that is designed to be understood by the customer. This shall include providing any written information to the customer in a language in which the ESCO representative has substantive discussions with the customer or in which a contract is negotiated;
- f. Investigate customer inquiries and complaints concerning marketing practices within five days of receipt of the complaint; and,
- g. Cooperate with the Department and PSC regarding marketing practices proscribed by the UBP and with local law enforcement in investigations concerning deceptive marketing practices.

4. Dispute Resolution

ESCOs will maintain an internal process for handling customer complaints and resolving disputes arising from marketing activities and shall respond promptly to complaints forwarded by the Department.