

CHARGE Conference Call

July 22, 2010 – 9:30 a.m.

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

Topics for Discussion

1. EGS Marketing Activities

- PUC issued tentative order for comment on July 16, 2010, which is available at the following link: <http://www.puc.state.pa.us/general/ConsolidatedCaseView.aspx?Docket=M-2010-2185981>
- Comments are due within 30 days, or on August 16, 2010, and reply comments are due within 15 days after that, or on August 31

2. Supplier Consolidated Billing Implementation

- EDEWG plans to have a document ready to submit to CHARGE around the end of July
- Staff noted that supplier tariffs contain provisions for EGSs doing consolidated billing to make EDC whole regardless of whether customer pays charges
- Issue raised about recovery of EDC costs incurred to make system changes needed for EGS consolidated billing; topic will likely be addressed in EDEWG document; and cost recovery would probably be sought during a rate case

3. Eligible Customer List

- PUC issued tentative order for comment on July 15, 2010, which is available at the following link: <http://www.puc.state.pa.us/general/ConsolidatedCaseView.aspx?Docket=M-2010-2183412>
- Comments are due within 20 days, or on August 4, 2010; no reply comments are permitted

4. Default Service Bid Information

- Staff requested feedback on the approach followed by FirstEnergy as a starting point for standardizing release of default service auction results and formulation of price to compare; and items raised during discussion included:
 - Cost components in procurement result announcements by National Economic Research Associates, Inc. (NERA)
 - Percent of supply in procurement result announcements by NERA

- Use of Excel rather than PDF document to show results
- How and when transmission costs are updated
- How spot market component will be estimated
- Staff is considering feedback and planning to get guidance out by end of July, which can be adjusted after some period of time depending on experiences

5. Estimated State Tax Amount on Bills

- Question has arisen about whether the presentation of “estimated total state taxes” on residential bills is required for generation charges of EGS as there is no standard treatment among EGSs
- Staff has determined that EDC tax components are Capital Stock, Property Tax-Local and PURTA, State Unemployment Compensation, PA State Income Tax, and Gross Receipts Tax.
- Staff is conducting further review of statute and regulations to offer guidance to EGSs on this issue; interested in feedback from group on value of having information on bills about taxes (other than GRT) paid by EGSs

6. Gross Receipts Tax

- Based on discussion during June 10, 2010 call about the need to gross-up the GRT rate from 5.9% to 6.27%, Staff drafted FAQ to clarify issue for consumers; it may be viewed at <http://www.papowerswitch.com/frequently-asked-questions/> and is also attached
- EGSs should ensure that sales and marketing communications are consistent with billing practices

7. Historical Usage Requests

- PUC’s order adopted on June 3, 2010 in Petition of PECO Energy for Approval of Smart Meter Technology Procurement and Installment Plan clarified PECO’s obligation to provide historical usage information in response to EDI request when a customer has previously restricted release of this information but has given the EGS a letter of authorization
 - Link to the order:
<http://www.puc.state.pa.us/general/ConsolidatedCaseView.aspx?Docket=M-2009-2123944>
- Staff expects Secretarial Letter to be issued clarifying this obligation for all EDCs by the end of the month

8. Last-In Enrollments

- Spreadsheet was previously circulated to show how EDCs handle multiple enrollments for the same customer before the 16-day cut-off date; it is attached to this recap for ease of reference
- Group has generally discussed value of standardizing enrollment process going forward; benefits of standardization were identified; and issue will remain on the list for further discussion

9. Mixed Meter – EGS Authority

- Questions have been raised about whether EGSs must have authority to serve residential customers when a residential customer is served as part of a mixed meter situation
 - Staff's prior guidance was that if the customer is served under a Residential rate schedule, the EGS should have authority under the license to serve residential customers (and that residential consumer protections would apply)
- During the April 29, 2010 call, EGSs expressed concerns about needing a license to serve residential customers if they are contracting with a commercial entity, such as a military base, due to marketing, reporting and compliance differences
- Based on concerns raised during April 29, 2010 call, staff has revisited this issue and now believes that it may not be necessary for an EGS to obtain a license to serve residential customers or to afford residential consumer protections when the EGS contracts with and bills the commercial customer
- Staff is drafting document to explain issue and different interpretations in order to obtain guidance from the Commission

10. Contract Expiration/Renewal Notices

- Renewal notice regulations at 52 Pa. Code 54.5(g) have been superseded by subsequent guidelines issued in 2001, which are attached and posted on the OCMO's webpage at http://www.puc.state.pa.us/electric/electric_CompetitiveMarketOversight.aspx
 - All EGS s should review guidelines and submit any questions to ra-OCMO@state.pa.us
 - Staff is offering to informally review proposed renewal notices; please send them to ra-OCMO@state.pa.us at least 10 days prior to issuance to consumers
- Group has previously discussed requirement for inclusion of price to compare (PTC) in renewal notices that must be issued prior to PTC being available, along with staff's proposal for inclusion of estimated PTC, with information of how/when to obtain actual PTC and indication that PTC may change quarterly

- Concerns have been raised about validity of estimated PTC as well as average PTCs where EDCs are using declining block rates
- Staff has offered to facilitate disputes between EGSs and EDC's about validity of estimated PTCs
- Issue will be further discussed during this call
- Group discussed how to handle situation where customer fails to respond to a renewal notice, along with staff's proposal to follow natural gas regulations that permit customer to stay with the supplier but have the option of ending the contract at any time without penalty (this was a compromise in the natural gas industry between requiring customer to revert to default service or being locked into a long-term agreement)
 - Concerns have been raised about existing customer contracts that contain automatic renewal provisions stating that customer will remain with EGS if no response is received to renewal notice containing new prices/terms
 - Concerns have also been raised about how this approach limits an EGS's product offerings since the customer is free to return to the EDC anytime without penalty
 - Staff has suggested that the participants consider a compromise that allows customers to terminate a contract without penalty within a set number of days after receipt of the first bill containing the new price; will discuss suggestion during this call
 - Group also discussed situation where the new EGS price will be lower than the existing price; it appears that an automatic renewal would be permissible under the natural gas regulations; staff will review and raise again during this call

11. Budget Billing for Variable-Priced Products

- Commissioners' offices have asked staff for input on appropriateness of requiring EGSs to offer budget billing option to customers in connection with variable-priced products
- A description of the issue, statutory and regulatory provisions and staff's preliminary views are contained in the attached document
- Preliminary discussion of issue will be held during this call

12. CHARGE Contact List

- Contact list is on website at the following link:

http://www.puc.state.pa.us/electric/electric_CompetitiveMarketOversight.aspx

- Please send contact information or updates to ra-ocmo@state.pa.us; purpose of this list is to enable stakeholders to contact one another directly to resolve issues and is separate from email distribution list

13. Meeting Schedule for Remainder of 2010

- August 5, 9:30 a.m.
- August 26, 9:30 a.m.
- September 9, 9:30 a.m.
- September 30, 9:30 a.m.
- October 14, 9:30 a.m.
- October 28, 9:30 a.m.
- November 18, *1:30 p.m.*
- December 9, 9:30 a.m.
- December 23, 9:30 a.m.

FAQ on Electric Gross Receipts Tax

Q. What is gross receipts tax (GRT) on sales of electric energy?

A. Gross receipts tax is paid by both electric distribution companies and electric generation suppliers on the basis of the company's or the supplier's gross receipts from the sale of electric generation supply within the Commonwealth of Pennsylvania. Electric distribution companies and electric generation suppliers include the GRT as part of the cost of electric generation supply.

By law, the current GRT rate in Pennsylvania is 5.9%. However, since the tax is embedded in the cost of electric generation supply, electric distribution companies and electric generation suppliers apply a gross-up factor to determine the amount of GRT that must be paid to Pennsylvania. As a result, electric distribution companies and electric generation suppliers pay GRT to Pennsylvania in the amount of 6.27% on the base price of electric generation supply. This gross-up factor, resulting in a GRT of 6.27%, is calculated by the following formula: $1/1 - 5.9\%$.

For example, if an electric distribution company or electric generation supplier charges a customer \$100 per month for electric generation supply, application of the 5.9% GRT rate results in an electric generation supply charge of \$105.90. Because the electric distribution company or electric generation supplier owes GRT to Pennsylvania on the basis of total gross receipts in the amount of \$105.90, it must apply a gross-up factor to the base price of \$100. Application of this gross-up factor results in a GRT liability of 6.27%. To recover this full amount from consumers, electric distribution companies or electric generation suppliers must collect \$106.27 for electric generation supply.

As a consumer, it is important to understand that even if an electric generation supplier quotes the GRT rate of 5.9%, the electric generation supplier is still obligated to pay Pennsylvania GRT in the amount of 6.27% on the base price of electric generation supply. Consumers should ensure that any GRT rate communicated by electric generation suppliers in offers or price quotes matches the GRT amount that is included in electric generation supply charges on bills.

The Commissioners' offices have requested the input of the Office of Competitive Market Oversight (OCMO) on the appropriateness of requiring electric generation suppliers (EGSs) to offer the budget billing option to customers in connection with monthly, daily or hourly-priced or other variable-priced supply products. The specific questions posed by the offices are: 1) whether the Public Utility Code requires all supply offers to be accompanied by a budget billing option, 2) whether the Commission's regulations require budget billing options for all supply offers; and 3) if the statute does not contain this requirement but the regulations do, whether it makes sense to modify our regulations to expressly exempt EGSs from offering a budget billing option in connection with monthly, daily or hourly-priced or other variable-priced supply products.

OCMO is unaware of any provision in the Public Utility Code expressly requiring that customers be afforded the budget billing option in connection with all supply offerings. Section 2807(c) of the Electric Competition Act contains several provisions regarding customer billing. None of those address the budget billing option. Section 1509 of the Public Utility Code also sets forth billing procedures. Likewise, it does not require that customers are afforded the budget billing option.

In any case, Section 2809(e) specifically authorizes the Commission to forebear from applying any requirements of the Public Utility Code that are unnecessary due to competition among electric generation suppliers. That provision further provides that the Commission "shall impose requirements necessary...for assuring that 52 Pa. Code Ch. 56 (relating to standards and billing practices for residential utility service) are maintained." The Commission's licensing regulations refer to the need for an applicant to establish fitness, willingness and ability to perform the service in conformance with applicable provisions of the Public Utility Code. Section 56.12(7) of the Commission's regulations require that "a gas, electric and steam heating utility shall provide its residential ratepayers with an optional billing procedure which averages estimated utility service costs over a 10-month, 11-month or 12-month period to eliminate, to the extent possible, seasonal fluctuations in utility bills."

In our view, exempting EGSs offering variable-priced supply products from the budget billing requirement does not in any way jeopardize the consumer protections afforded by Chapter 56. Particularly to the extent that variable-priced supply products fluctuate based on price signals from the wholesale market, it would seem counterproductive to insist that residential customers be afforded a budget billing option when selecting these products. Indeed, variable-priced supply products are more consistent with the overall conservation goals of Act 129 and budget billing interferes with the consumers' ability to obtain the information needed to adjust their consumption and demand in response to price signals.

Residential customers who wish to avail themselves of a budget billing option would either choose a different EGS or remain with the default service provider. If residential customers prefer the certainty of a budget billing option and are reluctant to accept variable-priced supply products without that feature, EGSs in the market offering such products would have to make a business decision of whether to respond to the desires of those consumers.