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File #: 2507/142281

July 13, 2011

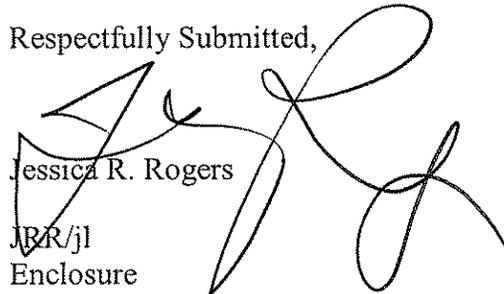
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**RE: Notice of Reconsideration Order for Eligible Customer Lists**  
**Docket No. M-2010-2183412**

Dear Secretary Chiavetta:

Enclosed please find the Comments of PPL Electric Utilities Corporation to the Pennsylvania Public Utility Commission's Notice of Reconsideration Order for Eligible Customer Lists in the above-referenced proceeding.

Respectfully Submitted,



Jessica R. Rogers

JRR/jl

Enclosure

cc: Office of Competitive Market Oversight

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa, Code Section 1.54 (relating to service by a participant).

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Certificate of Service

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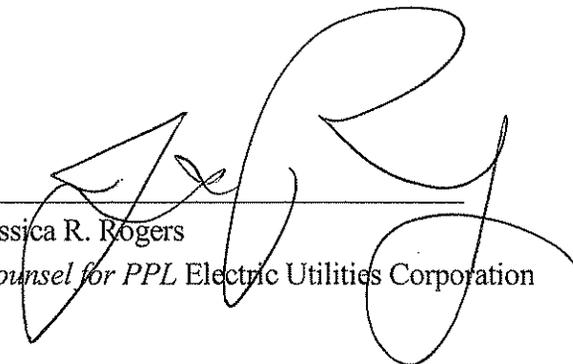
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines For Eligible Customer Lists	Docket No. M-2010-2183412
PPL Electric Utilities Corporation Retail Markets	M-2009-2104271
Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2011 through May 31, 2013	P-2009-2135500

**COMMENTS OF PPL ELECTRIC UTILITIES  
CORPORATION TO NOTICE OF RECONSIDERATION ORDER**

**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

**I. INTRODUCTION**

By order entered on November 12, 2010 (“November 12 Order”), the Pennsylvania Public Utility Commission (“Commission”) established interim guidelines designed to produce more uniformity in the type of customer information provided by Electric Distribution Companies (“EDCs”) in their Eligible Customer Lists (“ECLs”) which are then made available to Electric Generation Suppliers (“EGSs”). Two parties appealed the November 12 Order to the Commonwealth Court. Upon the Commission’s application, the Court returned jurisdiction to the Commission for reconsideration of the November 12 Order, pursuant to Section 703(g) of the Public Utility Code. 66 Pa. C.S. § 703(g).

In addition, in order to achieve statewide uniformity in its resolution of the various issues regarding the ECL, the Commission provided notice of its intention to reconsider two earlier orders

that established ECL parameters for PPL Electric Utilities Corporation (“PPL Electric”) and Duquesne Light Company (“Duquesne”).<sup>1</sup>

On June 13, 2011, the Commission entered its Notice of Reconsideration Order (“Reconsideration Order”) requesting comments and reply comments on various ECL issues, particularly the customer privacy issues that were the subject of two Commonwealth Court appeals. Comments are due within 30 days of entry of the Reconsideration Order, i.e., by July 13, 2011. Reply comments are due within 45 days of entry of the Reconsideration Order.

PPL Electric is a “public utility” and an “electric distribution company” as those terms are defined under the Public Utility Code, 66 Pa.C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and default service provider (“DSP”) electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

PPL Electric fully supports the Commission’s ongoing efforts to facilitate competition and supports the Commission’s efforts to improve and standardize the types of information provided in ECLs. The Company appreciates this opportunity to provide additional comments on various ECL issues, particularly the customer privacy issues that were the subject of the Commonwealth Court appeals. In its comments, PPL Electric first addresses the privacy issues and then provides comments on several additional issues.

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<sup>1</sup> *PPL Electric Utilities Corporation Retail Market*, Docket No. M-2009-2104271, Order entered October 22, 2009 and *Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2011 through May 31, 2013*, Docket No. P-2009-2135500, Order entered July 30, 2010.

## II. CUSTOMER PRIVACY ISSUES

The November 12 Order and the Reconsideration Order raise two customer privacy issues: (1) Whether a customer can elect to withhold all of his or her information from the ECL, and (2) whether an EDC should use an “opt out” process for customers to elect what information to withhold. PPL Electric discusses both of those issues below.

### a. **Option to Withhold All Information**

In the November 12 Order, the Commission held that a customer may restrict the release of: (1) customer telephone number, (2) customer address, and (3) historic billing data. However, the Commission refused to adopt a proposal by the Office of Consumer Advocate (“OCA”) that would permit customers to withhold all of their information. In its petition for review to the Commonwealth Court, the OCA stated that the November 12 Order prevents customers from restricting all “personal and private customer information” from release to EGSs, even if customers object to such release. OCA Petition for Review, p. 5. The OCA claimed this approach violated the Pennsylvania Constitution and the Public Utility Code. *Id.* The Pennsylvania Coalition Against Domestic Violence (“PCADV”) raised similar privacy concerns in its cross-petition for review. In its Reconsideration Order, the Commission requested comments on this issue.

PPL Electric recommends that the Commission permit customers to withhold all of their information or, at the customer’s option, to withhold one or more of the three specific categories enumerated in the November 12 Order. Customers may have various valid reasons for wanting to withhold some or all of their information. The ability to maintain confidentiality of customer information is an important part of providing reasonable service to customers. Customers have a reasonable expectation of privacy regarding this information and, as a general proposition, should be permitted to maintain this confidentiality without having to explain why they are doing

so. Permitting customers to restrict information only under certain factual circumstances, e.g., dangerous or abusive situations, is unreasonable for two reasons. First, customers should not have to disclose such facts in order to maintain the privacy of their information. Second, it would be difficult, if not impossible, for an EDC to make this type of determination on any reasonable basis.

If, on the other hand, the Commission were to authorize customers to restrict any or all information, this would permit EDCs to comply with customer requests without inquiring as to the motive for a request and without having to determine whether or not the request was reasonable.<sup>2</sup> As explained further below, PPL Electric does not anticipate that a substantial number of customers will seek to restrict all of their information. However, for those few customers who do wish to protect their privacy in this fashion the option certainly should be available. The Commission has supported customer privacy interests in the past and should continue to do so here. Specifically, the Commission should allow customers to decide what option is most appropriate for their individual situation and should not require that customers explain the reason for their choice or require EDCs to determine the reasonableness of that choice.

Furthermore, allowing customers to completely restrict the release of their personal information is unlikely to have a significant impact on retail competition. Any customer who would elect total non-disclosure undoubtedly would be unhappy about the disclosure of his or her personal information to marketers, and presumably would not react well to contact by marketers that the customer considers an invasion of personal privacy. Such customers would be unlikely to shop based on such personal contacts, and such contacts may in fact be counter

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<sup>2</sup> For example, if a customer called to restrict information, PPL Electric would not be required to inquire whether the request was due to a dangerous or abusive situation, or to advise a customer that information could be restricted if a dangerous or abusive situation existed.

productive, generate customer complaints and increase the workload of marketers, EDCs, and the Commission.

Moreover, contact by telephone or mailing is not the only way customers can find out about retail choice. PPL Electric, the Commission, the OCA and others frequently provide customers with information on the numerous resources available to assist them in shopping. PPL Electric believes that the Commission can protect customer privacy and still accomplish its goal of increasing retail competition, through the use of customer outreach and education programs, rather than through direct marketing to customers who do not wish to release their personal information.

Accordingly, the availability of a privacy option that would allow customers to completely restrict the availability of their personal information is not likely to frustrate EGS' marketing efforts in any meaningful way. Not providing such an option, on the other hand, could be upsetting to a small subset of customers and will be difficult for EDCs to administer. The majority of customers will not request a privacy restriction. Those who do so would not respond favorably to direct marketing in any event. Thus, the Commission can achieve an appropriate balance between protecting customer privacy and increasing retail competition by allowing those customers who are seriously concerned about their privacy to opt out from disclosing their personal information. Providing this option is highly unlikely to have any impact on retail competition and any hypothetical impact on retail competition is far outweighed by the reasonable protection of personal privacy provided through an opt out procedure. It will also reduce the difficult burden that would otherwise be placed upon EDCs to determine whether or not a specific customer has adequately supported his or her request to completely restrict the

release of personal information. For all of these reasons, PPL Electric supports giving customers the choice to restrict the release of all of their information.

**b. Use of “Opt Out” Process**

In the November 12 Order, the Commission continued its historic practice under which “restriction of information would occur through affirmative customer action, such as through a postal card check-off which clearly identified the information a customer wished to have restricted.” November 12 Order, p. 8. This approach is generally referred to as an “opt out” process. In its petition for review to the Commonwealth Court, PCADV objected to this manner of obtaining customer consent, alleging that the opt out program for information disclosure violates individuals’ right to privacy. PCADV Statement of Issues, p. 2. In its Reconsideration Order, the Commission requested comments on this issue.

PPL Electric recommends that the Commission continue its current practice of permitting customers to withhold information through an opt out process. Under the opt out process, customers must take some action, e.g., return a post card or call a toll free telephone number, in order to withhold their information from the ECL. Conversely, under the alternative “opt in” process, customers must take some action to release their information for the ECL. PPL Electric recognizes that customers’ responses to mailings of this type are generally very low. Therefore, under an opt in process, it is likely that very few customers would respond and the ECL would contain very little customer data. The opt in process would result in an overly broad exclusion of customer information from the ECL, because many customers are indifferent as to whether or not their information is released. A customer who is indifferent will not take any action with regard to a bill insert or other notice, whether it is to opt in or to opt out. Therefore, if the Company uses an opt in process, many customers who have no concern with having their information released will not be included on the ECL. Periodic release of the ECL is designed to

facilitate the continued development of retail competition in Pennsylvania, so a system where customers who are indifferent to having their information released are excluded from the ECL could frustrate the very purpose of the ECL.

On the other hand, use of the current opt out process should continue to provide a significant amount of customer data and, thereby, continue to support retail competition. The opt out process allows those people who are concerned with their privacy to exclude their information from the ECL, without resulting in a broad exclusion of information from customers who fail to respond. The Commission's stated goal, a goal that PPL Electric supports, is to further the development of retail competition. Customers who are indifferent to having their information released may be the very customers who are most in need of information regarding retail competition. The opt out process strikes the right balance between privacy concerns and the Commission's goal of informing the public and encouraging retail competition.

PPL Electric believes that customers' privacy concerns will be adequately protected under continuation of the opt out process. If the Commission adopts PPL Electric's recommendation to permit customers to withhold all information, customers will have that option available to them and will not have to provide any specific reason for making that choice. Even if a customer fails to elect to withhold information at the earliest opportunity, he or she will be able to do so at any time in the future. PPL Electric explains how this will be accomplished in further detail in Section III(b), below. PPL Electric will continue to maintain its commitment to informing and educating its customers on the many options available to them. In addition, and as a result of future customer education efforts by the Commission, consumer advocacy groups, EDCs and EGSs, customers will be fully informed about their options in this area and know how to make appropriate choices.

### **III. OTHER ISSUES**

#### **a. Elements of the ECL**

The Commission's Reconsideration Order includes an Appendix A, entitled "ECL Customer Data Elements per November 12, 2010 Interim Guidelines Order." Appendix A sets forth 17 minimum elements; 3 EDC specific elements and 3 optional elements. PPL Electric generally has no objection to the elements contained in Appendix A, but does have several comments.

With regard to the minimum elements, PPL Electric recommends that item number 12, "Transmission Obligation (PJM)" be expanded. The Commission's Interim Guidelines required current and future Capacity and Transmission Peak Load Contributions. Such information is clearly useful and important to marketers and should be available to them. Therefore, the Company recommends that this item should be restated to include that additional data.

The EDC specific elements do not apply to PPL Electric and the Company does not have any comments on them.

With regard to the optional elements, PPL Electric does not have any current plans to utilize the three elements set forth in this section of Appendix A. However, the Company anticipates adding two other elements: (1) Reverse flow or generation indicator and (2) Net metering-renewable indicator. PPL Electric believes that these additional elements will provide useful information to EGSs, and therefore recommends that the Commission permit EDCs to include them as optional ECL elements in the future.

**b. Frequency of Re-Soliciting Customers**

PPL Electric recommends that the Commission direct all EDCs to solicit their customers in January 2012 to select options for withholding their information, but not require any subsequent solicitations of all customers.

After the January 2012 solicitation is completed, PPL Electric would no longer actively solicit customers to determine what elements on the ECL, if any, they want to withhold. It is assumed that the January 2012 solicitation would require the customer to opt-out of any elements they do not want to have listed on the ECL. If they do not respond, all available information identified to be placed on the ECL would be shown and available to all EGSs to view and use for marketing purposes.

In the future, the ECL would be generated on a monthly basis and made available to EGSs. If a customer chooses to withhold elements of the ECL, that information would not be posted on any upcoming released version of the ECL.

Conducting a single opt out solicitation will cost the company approximately \$800,000 per solicitation. In lieu of continuing costly and potentially confusing solicitations, PPL Electric proposes to actively notify customers of their withholding options through announcements in its Connect bill insert, e-mail where available, or a separate announcement included in the customer's paper bill or electronic notification, if available. PPL Electric proposes to provide notification in its Connect bill insert or separate flyer in the customer's bill at least once a year. The information in these communications will provide guidance to customers on how to make their selections through a Company provided form, written letter, telephone (IVR or CSR) or through the PPL Electric Website. There would be no additional incremental cost to providing these types of notices, as they are already incorporated in PPL Electric's current cost structure.

PPL Electric would continue to maintain its IVR system and website so that customers would have the convenience of making their choices in private through the IVR system or through the Company's website. The Company would continue to offer customers the opportunity to call PPL Electric's Customer Contact Center and speak to a customer service representative to assist them in making their selections. Any time after the January 2012 solicitation is completed, the Company would continue to honor the election forms and written notification previously received from the customer.

After the system-wide solicitation in January 2012 is complete, new customers would be presented with the opportunity, in a welcome package, to respond to PPL Electric through the use of a solicitation form. The form, and a postage paid envelope, would be included in the welcome package. The customer would be able to return the form should they want to opt-out of any or all of the available ECL elements by returning the form in the Company supplied postage paid envelope. The customer's ECL information would be updated on the next monthly ECL conducted after PPL Electric received and processed the form.<sup>3</sup> Forms and letters are generally processed within a few working days after they have been received.

The Company believes that the continued communications described above will provide customers with adequate alternatives for changing their ECL withholding selections without causing the Company to incur a substantial and unnecessary additional expense. The continued communications will provide customers with an ongoing opportunity to update their ECL information in a better and more efficient manner than single solicitations. Therefore, the

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<sup>3</sup> EGSs should have an obligation to use the most recent version of the ECL, and to discard prior versions, in order to ensure proper recognition of each customer's current election regarding release of personal information.

Commission should direct that all EDCs conduct a one-time solicitation, followed by notices communicated on a regular basis.

**c. “Moratorium” on ECL Changes**

In its comments to the Commission’s Tentative Order in the Interim Guidelines For Eligible Customer Lists at Docket No. M-2010-2183412, the Company recommended that, following the implementation of the Interim Guidelines, the Commission should implement a moratorium on changes to the ECL until after December 31, 2012. PPL Electric Comments, p.2. In its Final Order, the Commission rejected that proposal.

PPL Electric respectfully requests that the Commission reconsider its position on this issue. The Company reiterates that substantial time and costs can be incurred to program its system to provide information to be included in the ECLs. There is not currently in place any mechanism, other than a base rate proceeding, for EDCs to recover the incremental costs to program and reprogram computer systems. Operating and capital budgets are not unlimited, and further requests to change data development and collection for the ECLs can result in postponing other programming projects to assure and improve customer information and billing system functionality. Therefore, PPL Electric requests, upon completion of this proceeding, that the Commission not entertain further proposals to change the ECLs through December 31, 2012. During this “moratorium,” all parties will have the opportunity to gain experience during an additional year of statewide marketing and enrollment activity. It is important to note that this time will allow parties to engage in marketing and enrollment targeted at customers of EGSs whose existing supply contracts will be expiring, as well as marketing and enrollment targeted to POLR customers. A moratorium on changes would allow all parties involved to gain valuable experience with the current system, so that the Commission may receive comprehensive and

informed feedback the next time it determines to investigate the ECL, and so that any future changes can be based on the real-world experience of the parties.

#### IV. CONCLUSION

As stated above, PPL Electric supports the efforts of the Commission in this proceeding to improve and make more uniform the types of information provided in ECLs. As discussed in the foregoing comments, the Company recommends just a small number of modifications and clarifications. Accordingly, PPL Electric respectfully requests that the Commission's final order after reconsideration contain provisions consistent with the Company's comments.

Respectfully submitted,



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