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Via Overnight Mail and eFiling

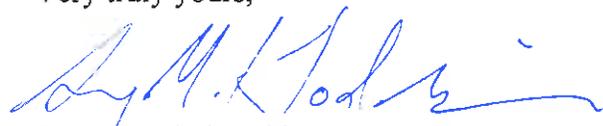
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120-0200

RE: 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, 2010 P-2009-2135500

Dear Secretary Chiavetta:

In accordance with the Notice of Reconsideration entered June 13, 2011 in the above-referenced proceedings, please find enclosed for filing an original and five (5) copies of the Reply Comments of FirstEnergy Solutions Corp.

Very truly yours,



Amy M. Klodowski
Attorney

Enclosures

**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, 2010	:	P-2009-2135500
	:	

**REPLY COMMENTS OF
FIRSTENERGY SOLUTIONS CORP.**

FirstEnergy Solutions Corp. (“FES”) respectfully submits these Reply Comments to other parties’ Comments filed on or around July 13, 2011 in response to the Notice of Reconsideration issued by the Pennsylvania Public Utility Commission (“Commission”) in its Order entered June 13, 2011 in the above-captioned proceedings (“June 13 Order”). FES, a subsidiary of FirstEnergy Corp., offers wholesale and retail energy and related products to customers located primarily in the Mid-Atlantic and Midwest regions. FES is a licensed Electric Generation Supplier (“EGS”) in Pennsylvania, having been authorized at Docket No. A-110078 to serve all categories of retail customers throughout the Commonwealth.

I. INTRODUCTION

The Commission’s November 12, 2010 Opinion and Order (“November 12 Order”) in these proceedings determined that all customers may restrict historical billing data, their telephone number, and their service address, and individuals who identify themselves as victims of domestic violence may restrict the release of all of their personal data. Most of the discussion in response to the June 13 Order has surrounded this issue of privacy raised by the Office of Consumer Advocate (“OCA”) in its Petition for Review with Commonwealth

Court, and the Pennsylvania Coalition Against Domestic Violence (“PCADV”) in its cross-petition.

In FES’ July 13, 2011 Comments, FES argued that 52 Pa. Code § 52.8 does not give customers the right to restrict all information and the Commission is not bound by prior interpretations to the contrary. FES continues to believe this is the case, and agrees with the Retail Electric Supply Association (“RESA”) that it is not necessary to allow all customers to restrict all information, because electric generation suppliers (“EGSs”) are bound to the same confidentiality restrictions as electric distribution companies (“EDCs”).¹ FES agrees with both RESA and Dominion Retail, Inc.² that there is no reason to believe that EGSs are untrustworthy (or less trustworthy than the EDC). Put another way, the Commission must find that EGSs will not comply with their statutory obligations in order to hold that information restriction on the basis of confidentiality concerns is valid. In fact, we are aware of no complaints regarding the release of customer information under the current system.

However, given that a number of parties continue to advocate for a process allowing the restriction of all customer information, FES offers these Reply Comments in hopes that, should the Commission adopt such a process, it is implemented in a manner that will not harm retail competition in the Commonwealth.

II. REPLY COMMENTS

A. **Should the Commission determine that customers should be allowed to restrict the release of all customer information, an opt-in process should be rejected.**

Of the seventeen parties submitting comments in response to the June 13 Order, three parties advocated for an “opt-in” process in which customers would have to affirmatively agree to the release of customer information: PCADV, Citizens’ Electric Company of

¹ Comments of Retail Energy Supply Association, p 3.

² Comments of Dominion Retail, Inc., p 1.

Lewisburg, PA and Wellsboro Electric Company, and the American Civil Liberties Union of Pennsylvania.³ Additionally, Duquesne Light Company (“Duquesne”) and the Pennsylvania Utility Law Project suggested that the Commission consider an opt-in process as one possible means of addressing the privacy concerns.⁴ The Office of Consumer Advocate also supports an opt-in process if the ECL will include information such as telephone numbers and smart meter data.⁵

FES is strongly opposed to an opt-in process regarding the release of customer information. Duquesne indicated that its most recent opt-out process resulted in 16.5% of customers electing to withhold all or some information from EGSs. An opt-in process would result in an even greater number of customers whose information will not be released by EDCs, since an affirmative action would be required by customers to authorize the information release⁶. This would result in an Eligible Customer List (“ECL”) that is essentially useless to EGSs. The parties advocating for the opt-in process have entirely ignored the many benefits of the ECL, which, as RESA pointed out, is not merely a marketing list; it is a tool that greatly enhances the enrollment process.⁷

Furthermore, an opt-in process that severely limits the information provided to EGSs is clearly out of line with state policy, as articulated by the Commission in its Policy Statement on Default Service and Retail Electric Markets:

The public interest would be served by common standards and processes for access to retail electric customer information and data. This includes customer names and addresses, customer rate schedule and profile

³ Comments of Pennsylvania Coalition Against Domestic Violence, pgs 9 and 13-17; Comments of Citizens’ Electric Company of Lewisburg, PA and Wellsboro Electric Company, pg 4; and Comments of American Civil Liberties Union of Pennsylvania, pgs 1-2 and 8-10.

⁴ Comments of Duquesne Light Company, p 4 and Comments of Pennsylvania Utility Law Project, pgs 9-13.

⁵ Comments of Office of Consumer Advocate, pgs 19-21.

⁶ For example, in Maryland only 5% of residential customers served by The Potomac Edison Company have affirmatively signed up on its “interested customer list” (18,749 out of 368,949 customers).

⁷ Comments of Retail Energy Supply Association, p 7.

information, historical billing data, and real time metered data. Retail choice, demand side response and energy conservation initiatives can be facilitated if EGSs, curtailment service providers and other appropriate parties can obtain this information and data under reasonable terms and conditions common to all service territories, that give due consideration to customer privacy, provide security of information and provide a customer an opportunity to restrict access to nonpublic customer information.⁸

The Commission needs to strike an appropriate balance between consumer privacy and retail choice, which will not be achieved by the adoption of an opt-in process.

B. Should the Commission adopt an opt-out process allowing the restriction of all customer information, there are a number of principles that should be followed to ensure that no harm results to retail competition.

While FES maintains that the current framework for the restriction of customer data offers adequate consumer protections, a number of parties suggested that all customers should be allowed to restrict all information. If the Commission determines that the November 12 Order should be modified and adopts an opt-out process allowing the restriction of all data, this should be implemented in a manner that protects retail choice and avoids creating any barriers to competition.

If this path is chosen, it is critical that all customers across the Commonwealth are educated about the process in order to make an informed decision, that any opt-out notices are standardized across all EDCs, and that these notices inform the customer of the benefits of remaining on the list. Existing customers should be solicited to select options for withholding information only once, and new customers should be presented with the opportunity as part of their welcome package, as suggested by PPL Electric Utilities Corporation (“PPL”). Any utilities that have recently solicited customers on this matter should not be required to repeat the process, as it could cause customer confusion and increased cost for the utilities. Finally, FES suggests that the opt-out notices be developed

⁸52 Pa. Code § 69.1812

through a stakeholder process led by OCMO and/or Commission Staff, to ensure consistency in messaging and to minimize any negative impact on competition.

C. The non-privacy related findings in the November 12 Order should be upheld, regardless of the Commission's decisions regarding the release of customer information.

FES supports RESA's request to "maintain the issues regarding the ECL that are not implicated by the privacy concerns raised during the appeal".⁹ Given that the interim guidelines were developed based on the outcome of an extensive stakeholder process, there is no need to revisit the specific items to be included on the ECL at this time. However, any new items that were not discussed during the stakeholder process should be addressed. Specifically, FES¹⁰ and PPL¹¹ suggested inclusion of indicators for net metering, a tax status, and reverse flow or generation.

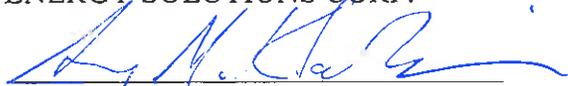
III. CONCLUSION

FES fully supports the Commission's efforts to expand retail competition so all electricity customers can obtain the benefits competition provides, and appreciates the opportunity to assist the Commission in formulating the guidelines to be adopted in these proceedings.

Respectfully submitted,

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⁹ Comments of Retail Energy Supply Association, p 2.

¹⁰ Comments of FirstEnergy Solutions Corp. p 7-8.

¹¹ Comments of PPL Electric Utilities Corporation p 8.