

# PENNSYLVANIA ENERGY MARKETERS COALITION

December 14, 2011

Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Dear Secretary Chiavetta:

Please find enclosed the written Comments of the Pennsylvania Energy Marketers Coalition ("PEMC"), in response to the issuance of a Tentative Order by the Public Utility Commission ("PUC" or "Commission") on November 14, 2011, establishing interim guidelines regarding the standards for changing a customer's electricity generation supplier (Docket No. M-2011-2270442).

Please do not hesitate to contact me with any questions or concerns regarding our Comments.

Sincerely,



Frank Caliva, III

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(PEMC)

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/Enclosures

cc: Michael Meath, Regulatory Consultant, PEMC

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines Regarding Standards )  
for Changing a Customer's ) Docket No. M-2011-2270442  
Electricity Generation Supplier )

**COMMENTS OF THE  
PENNSYLVANIA ENERGY MARKETERS COALITION**

Pursuant to Docket No. M-2011-2270442, and the Tentative Order of November 14, 2011, issuing for public content interim guidelines regarding standards for changing a customer's electricity generation supplier, the Pennsylvania Energy Marketers Coalition ("PEMC") would like to respectfully submit the following written Comments for consideration by the Pennsylvania Public Utility Commission ("PUC" or "Commission") and Staff in the ongoing investigation of the retail electricity market in the Commonwealth of Pennsylvania ("RMI").

The PEMC appreciates the thoughtfulness and care taken by the Commission and Staff in crafting this Tentative Order on accelerating customer switching between the electric distribution company ("EDC" or "utility") and electricity generation supplier ("EGS" or "supplier"), and EGSs. The PEMC understands the delicate balance the Commission has to strike between strengthening the competitive energy marketplace in the Commonwealth, while ensuring that strong consumer protections are vigorously enforced to prevent the transfer of a customer's electricity supply without the customer's authorization ("slamming"). The PEMC believes this Tentative Order achieves both of these objectives with great success. We wholeheartedly support these guidelines, while respectfully offering

suggestions in just a few areas where we believe the Commission might clarify the interim guidelines to ensure maximum effectiveness.

### **WAIVING OF 10-DAY WAITING PERIOD A POSITIVE STEP**

The PEMC strongly supports the bold step proposed by the PUC to waive the current 10-day waiting period after an EGS submits a new enrollment or change request to an EDC. During this period, a customer retains the ability to dispute that his or her consent was given for the transfer of his or her account to the new EGS. While the members of the PEMC strongly support all appropriate consumer protections, we believe this waiting period unnecessarily prolongs the switching process, and can result in customer dissatisfaction and frustration. While there are, unfortunately, selected incidents of true slamming that occur because of unscrupulous actors, these occasions are rare, and can *always* be addressed through customer communication with the EGS, the EDC, and when necessary and appropriate, through the Commission's complaint and dispute resolution process.

The waiving of this 10-day waiting period will not diminish any existing consumer protections, but will ensure that customers' choice to switch to a new EGS is executed quickly and efficiently, and in line with each customer's decision about what is best for their own energy needs.

In order to streamline the switching process, the PEMC recommends that the EDC notify the incumbent EGS (if the customer is already enrolled with a supplier) as soon as possible that a customer has enrolled with a new EGS. This notification would preferably occur within 24 hours of the EDC receiving an enrollment request from a new EGS.

### **CLARIFICATION NEEDED ON HOW AND WHEN EGS MUST ESTIMATE POTENTIAL SWITCHING DATE FOR CUSTOMER**

Guideline E calls for active communication and cooperation between EGSs and EDCs to ensure that EGSs can notify customers approximately when a switch will become effective, based on the customer's next meter read date. The PEMC appreciates the intent behind this guideline, and recognizes that waiving of the 10-day waiting period in Guideline D is premised on achieving a faster switch for the customers, so providing more accurate timelines to the customer makes sense. We want to inject a measure of caution, however, as paragraph (3) states that an EGS should provide an estimate of the date of the potential switch to the customer when marketing to that customer. An agent of an EGS would need immediate, on-demand access to information on a potential customer's next meter-read date in order to provide a good-faith estimate of when a potential switch would become active. So long as the customer information provided by each EDC includes the individual meter read cycle for each eligible customer, the EGS will have the ability to identify the approximate switching time by customer. If this level of detail is not provided by each EDC, the logistics involved in determining potential switching dates will be cumbersome at best. However, EGSs do not always know which specific customers they will be marketing to in advance – for example, if a potential customer contacts the EGS directly or approaches an EGS representative at a public event – and it may be technically difficult for such on-demand access to be made available by EDCs for EGSs. Additionally, a customer would need to provide an EGS with his or her account number before such information could be requested from the EDC, and it would be inappropriate and potentially concerning to a customer if the EGS required the customer to provide his or her account number *before* the EGS began marketing.

We recommend instead that the EGS be required to provide a good faith estimate of when a customer can expect a switch to be active *after* a customer has authorized such a switch to take place, but before the EGS submits the EDI enrollment transaction to the EDC.

Similarly, Guideline (H) requires the EGS to include in its disclosure statement a good-faith estimate of the starting date of service for the customer's service based on the customer's next immediate meter read date and the switching deadline for that date. This would seem to suggest that the EGS must personalize the disclosure statement it provides to each customer, which would be a significant administrative burden. The PEMC can only assume such personalization is not the Commission's intent, and thus requests more clarification and specificity in this guideline on what the EGS disclosure statement must say with regard to a good-faith estimate of the potential switching date. It would seem that the goal is to provide the customer with a sense of the process and the approximate timeframes for that process to unfold. This alone may help to relieve any anxiety on the part of the customer.

#### **PROVISIONS NEEDED FOR ENROLLMENT REQUESTS SUBMITTED AFTER SWITCHING DEADLINE**

Guideline (F) sub-paragraph (1) states, "An EGS shall submit an account transfer notice to an EDC or DSP before the switching deadline to ensure that the customer's account is transferred to the EGS at the customer's next immediate meter read date." Sub-paragraph (2) further states, "An EGS may delay the submission of an account transfer notice when the customer has agreed that the EGS would not begin to provide service until after the customer's next immediate meter read date."

The PEMC recommends that additional clarification be provided regarding how an EDC handles an EGS enrollment request on behalf of a customer that is received after that billing cycle's switching deadline, for any number of legitimate reasons. The PEMC recommends a new sub-paragraph (3) which states, "If an EDC receives a new enrollment transaction on behalf of a customer after the switching deadline for the customer's current billing cycle, the EDC will treat the transaction request as having been received prior to the immediately subsequent switching deadline in the customer's *next* billing cycle, and effectuate the switch accordingly."

**MORE CLARIFICATION NEEDED ON EVIDENCE NEEDED TO SUPPORT CUSTOMER AUTHORIZATION FOR SWITCH**

Guideline (I) states that an EGS's submittal of an account transfer notice to the EDC will meet the statutory requirement that requires an EDC to switch electricity supply service only upon receipt of written evidence of the customer's authorization. Guideline (I) goes on to specify that the EGS must retain appropriate written evidence that can be produced on request to demonstrate authorization by the customer for the switch. The PEMC requests that Guideline (I) be modified by adding the following new sub-paragraph (3): "If the EGS is relying on direct oral confirmation from the customer to authorize the switch, as approved in 52 Pa. Code § 57.173 and 66 Pa. C.S. § 2807(d)(1), an audio recording of such confirmation shall constitute valid evidence of the customer's authorization for a switch in a Commission proceeding on a customer complaint."

Similarly, the PEMC requests that the PUC provide clarification on what constitutes acceptable evidence, which the EGS can then use to demonstrate customer authorization for a switch following customer enrollment through an Internet-based interaction.

**MORE NUANCE NEEDED IN TREATMENT OF ERRONEOUS ENROLLMENT  
TRANSACTIONS AS SLAMMING**

Guideline (N) sub-paragraph (3) states, "When a customer contacts an EDC or DSP to request that the EDC rescind the transfer of his or her account to an EGS, the EDC or DSP shall treat the contact as a dispute involving a slamming allegation in accordance with Guideline O (relating to customer disputes; slamming complaints)." While the PEMC strongly opposes slamming, and our member EGSs hold themselves to the highest standards of integrity and transparency in their business dealings, we are concerned that this language might result in severe consequences for an EGS if a customer or agent makes an honest mistake. For example, an EGS must take a customer at his or her word if the customer affirms that he or she is the primary accountholder with decision-making authority. If this is later determined to be false, it may be difficult to reconcile. We recommend that the PUC incorporate some procedure by which EGSs can inform the EDC, DSP, or ultimately the PUC, of any material facts in a particular situation before the EGS faces legal consequences. This way, true errors and honest mistakes can be separated from clear cases of slamming (which should be punished to the fullest extent of the law).

**RECOMMENDED EDITS TO PROPOSED EDC ACCOUNT TRANSFER LETTER**

In Appendix B of the Tentative Order, the PUC includes a proposed template for the EDC account transfer letter, to be sent to customers upon receipt of a new enrollment

transaction on the customer's behalf. The PEMC recommends several small edits to the letter, which are included on the following page.

## APPENDIX B

### Proposed Content of EDC Account Transfer Letter (consolidated EDC bill example):

mm/dd/yy

[CUSTOMER NAME]  
[MAILING ADDRESS]

Customer/Account No: [XXXXXXXXXX]

For Service To:  
[SERVICE ADDRESS]

RE: IMPORTANT NOTICE ABOUT YOUR ACCOUNT

Dear [CUSTOMER]:

We received notice that the following company will be your new electric supplier:

[EGS NAME]  
[EGS CONTACT INFORMATION]

Our records also indicate that you will receive [X] bill from [EDC] which will reflect [EDC] charges and those of your electricity supplier.

Your new supplier will begin providing you with energy-electricity when your meter is read on or about [XX/XX/XXXX]. You will receive your first bill showing this supplier's charges the following month.

If this information is correct, you do not need to call us.

If you have any questions about this notice, please contact your new supplier. The supplier's contact information may be found above or on the disclosure statement you received from [EGS Name] your supplier.

If you have any other questions or concerns about your electricity service, you may contact us at 1-[XXX-XXX-XXXX] between the hours of [X] a.m. to [X] p.m. Monday through Friday.

Sincerely,

[EDC]

## **CONCLUSION**

The PEMC is grateful for the opportunity to provide these Comments as part of the vital discussions taking place in the RMI. We believe that these interim guidelines, taking into account the recommendations we respectfully submit, as detailed above, will result in a smoother, faster, and more satisfying switching experience for customers. The PEMC is committed to doing everything it can to work proactively with all the stakeholders in this process for the good of the Commonwealth and its consumers.

December 14, 2011

Respectfully submitted,

PENNSYLVANIA ENERGY MARKETERS COALITION



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