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December 14, 2011

VIA ELECTRONIC FILING

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

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

Dear Secretary Chiavetta:

Pursuant to the Commission's Tentative Order entered November 14, 2011 in the above-referenced proceeding, enclosed herewith for filing are the Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Tori L. Giesler

dln
Enclosures

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Interim Guidelines Regarding Standards :
For Changing a Customer's Electricity : Docket No. M-2011-2270442
Generation Supplier**

**COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER
COMPANY AND WEST PENN POWER COMPANY**

I. INTRODUCTION AND BACKGROUND

On November 14, 2011, the Pennsylvania Public Utility Commission ("Commission") entered a Tentative Order ("Tentative Order") in the above-captioned docket, proposing interim proposals and guidelines that are intended to facilitate the accelerated transfer of a customer's account from an electric distribution company ("EDC") to a competitive electric generation supplier ("EGS"), or from one EGS to another while preserving safeguards to prevent the unauthorized switching of a customer's account. The Tentative Order provided that parties interested in submitting written comments associated with the interim proposals, interim guidelines, and associated appendices may do so no later than thirty days from the entry date of the order, or December 14, 2011.

Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power") and West Penn Power Company ("West Penn") (collectively "the Companies") respectfully submit the following comments in response to the Tentative Order.

II. COMMENTS

In its Tentative Order, the Commission proposed the following three interim proposals to accelerate the transfer of customer accounts to EGSs:

1. Elimination of the ten-day confirmation letter and waiting period, and the resulting reduction in the sixteen-day rule;
2. EGSs should implement measures to ensure that they send completed enrollment transactions to EDCs before the window closes before the next meter read date; and
3. EDCs, EGSs, and the Commission should provide consumer education focused on switching time frames to improve customer understanding of the process.

These three interim proposals also included Interim Guidelines (attached as Appendix A to the Tentative Order) and a proposed EDC account transfer letter (attached as Appendix B to the Tentative Order). Additionally, the Tentative Order included interim proposals for consumer education and advanced metering. Upon adoption of the Tentative Order, Commissioner Cawley issued a statement (“November 14 Statement”) which posed four additional questions for interested parties to comment on. The Companies’ comments follow the same sequence as provided in the Tentative Order and are addressed individually; however, the Companies do not offer any comments specific to those questions posed by Commissioner Cawley in his November 14 Statement because those specific questions appeared to be seeking input from the EGSs.

Subject to the Companies’ recommended changes to the proposed guidelines outlined in these comments, the Companies have no opposition to the acceleration of the customer switching process upon selection of a new EGS. However, the Companies believe that the proper procedural method to implement the proposals set forth in the Tentative Order would be through

a rulemaking proceeding, and not the adoption of Interim Guidelines through Tentative and Final Orders. The establishment of such “binding norms” may only be done by an agency through a rulemaking or adjudication.¹ Therefore, such proposed guidelines would be appropriately developed through the revision of the Commission’s existing regulations rather than through Interim Guidelines and Tentative and Final Orders which, under Pennsylvania law, cannot be applied in a binding manner. Establishing revised regulations would also serve to remove the possibility of any inconsistencies between the existing regulations and these proposed guidelines, thereby eliminating the need to waive (or suspend) certain existing rules.

A. Interim Proposals to Accelerate the Transfer of Customer Accounts to EGSs

Interim Proposal 1: Elimination of the ten-day confirmation waiting period

As the Commission acknowledges in its Tentative Order, a consequence of eliminating the ten-day confirmation waiting period is the elimination of the confirmation letter the EDC sends to the customer which initiates the waiting period.² To ensure the customer is notified when their account will be transferred to an EGS, the Commission has proposed that the EDC send an account transfer letter to the customer, instead of the confirmation letter. The account transfer letter will alert the customer to the change in EGS, provide pertinent information about the EGS, and will direct the customer to contact the EGS with questions or concerns. The proposal by the Commission will result in the customer notice being provided at the time the transfer is to occur rather than in advance of the transfer.

The Companies’ experience indicates a low number of complaints related to the unauthorized switching of customers. While the existing ten-day waiting period is a consumer protection to help ensure that the customer’s account is not transferred without the customer’s

¹ See, *Pennsylvania Human Relations Commission v. Norristown Area School District*, 374 A.2d 671 (Pa. 1977).

² Tentative Order at 12.

knowledge and consent, the minimal number of complaints related to unauthorized switching may not justify the continuation of this particular measure. However, while the Companies understand that the elimination of the ten-day letter may facilitate accelerated shopping, an elimination of the ten-day waiting period means that customers will not have an opportunity to evaluate whether the account transfer is valid prior to the transfer occurring. The fact that these transfers would not be evaluated by the customer until after the transfer has already occurred could increase the manual efforts by an EDC to correct a customer's account if the customer is a victim of an unauthorized switch. The Commission has acknowledged the costs involved in correcting a customer's account that is a victim of an authorized switch:

The time and expense of switching a customer back to the previous supplier, correcting the billing, and reimbursements (not to mention possible involvement by the regulators and possible sanctions) far exceed the costs and efforts of preventing a slam.³

Therefore, the EDC must be authorized to collect from the EGS all costs the EDC incurs when it corrects customer accounts due to unauthorized switches. Although Interim Guidelines M and N include a provision for the EGS to reimburse the EDC or default service provider ("DSP"), it uses the terms "or" instead of "and," and "should" instead of "shall." This language should be revised accordingly to provide for full reimbursement by the responsible EGS for all costs incurred by the EDC for complaints related to unauthorized switching. Depending on the division of responsibilities, the creation of an alternative DSP, as has been in discussion as part of the Commission's Retail Markets Investigation,⁴ may result in costs incurred by both the EDC and the alternative DSP that will need to be reimbursed. This language should be revised accordingly, as described more fully below. Additionally, Interim Guideline N should provide a

³ Tentative Order at 10.

⁴ Established at Docket No. I-2011-2237952; the proposed guidelines also contemplate the uncertain future of default service by using both the terms "EDC" and "DSP" when referring to the entity in the role of providing default service to customers as EDCs currently do.

clear line of cost responsibility if a customer rescinds an account transfer due to being switched without the customer's consent. Therefore, the Companies propose the following changes to Interim Guidelines M and N in the event that the ten-day waiting period is eliminated:

M. EGS Rescission of Account Transfer.

* * *

3. The EGS [~~should~~] shall reimburse an EDC and/or DSP for reasonable costs related directly to the rescission of a customer account transfer by the EDC or DSP. In the interests of transparency and administrative efficiency, EDCs shall develop and seek approval of tariff terms outlining a standard fee representing the administrative costs of such a rescission for inclusion in their supplier tariffs.

* * *

N. EDC Rescission of the Account Transfer.

1. An EDC or DSP may rescind the transfer of a customer's account upon the request of an EGS or upon the request of a customer that was subject to transfer without the customer's consent. The rescission of the transfer of the customer's account shall comply with applicable statutes, regulations and Commission guidelines and orders.

2. The EGS [~~should~~] shall reimburse an EDC and/or DSP for reasonable costs related directly to the rescission of a customer account transfer by the EDC or DSP, consistent with terms that shall be approved as part of an EDC's supplier tariff.

* * *

EGS responsibility for costs incurred by EDCs associated with customers being switched without their consent is consistent with Interim Guideline P, which imposes penalties for the unauthorized transfer of customer accounts. Although the Commission correctly proposes a fine to be assessed to EGSs for unauthorized switching in Interim Guideline P, the Interim Guidelines should leave no loophole affording an EGS the opportunity to escape their cost reimbursement obligation to the EDC and/or DSP to correct customer accounts that are a victim of an unauthorized switch. Additionally, because there is increased exposure to the EDC as a result of correcting a customer's account due to such a switch, the EDC should be given the opportunity to adjust, as necessary, the credit requirements in its supplier tariff to account for the additional risk.

Furthermore, the language of Interim Guideline P should be modified to remove the risk of penalty from the EDCs. An EDC, under these proposed guidelines, will not be in a position to have obtained authorization from a customer prior to implementing a switch of the customer's account to the new EGS. Rather, due to the proposed elimination of the ten-day confirmation letter, the EDC must rely only upon an EGSs' representation that a customer has requested the transfer. To impose a financial penalty on the EDC where the EDC has no ability to verify the request would be unfair and improper. Therefore, the imposition of such penalties should be limited strictly to EGSs.

Finally, in Appendix B to the Tentative Order, the Commission has included a proposed EDC account transfer letter which will take the place of the customer confirmation letter if the ten-day confirmation waiting period is eliminated. If such a letter is to be used as a template by the EDCs, then it should be required that an EGS phone number be included in the EGS contact information. Additionally, consistent with Interim Guideline L, the Companies agree that the EDC or DSP shall send the account transfer letter to the customer by the end of the next business day after receiving the transfer notice from an EGS.

Interim Proposal 2: EGSs should implement measures to ensure that they send completed enrollment transactions to EDCs before the window closes before the next meter read date.

With regard to the second interim proposal, the Commission has proposed that the EDCs or DSPs establish a switching deadline to ensure that completed enrollment transactions are sent by an EGS to an EDC or DSP before the window closes prior to the customer's next meter read date. As defined in Interim Guideline C, the switching deadline is established in the EDC's or DSP's tariff, based in part on its operational requirements.

The Companies agree that the switching deadline should be established in the EDC's or DSP's tariff, which means each EDC or DSP would be required to submit a compliance tariff to the Commission, identifying the switching deadline and the operational requirements that necessitate the switching deadline timeframe. However, it is important to clarify that the removal of the ten-day waiting period from the existing sixteen-day rule may not automatically result in a six-day switching deadline, as a result of these operational requirements. As a result, the Companies anticipate a minimum of a six-day switching deadline, but this deadline could be longer by a few days, depending upon operational requirements, timelines, and processes, which would be set forth in the EDC's supplier tariff filing. Also, due to changes beyond the control of the EDC (such as procedural changes at PJM Interconnection, LLC or electronic data interchange ("EDI") modifications), the EDC may need to adjust the switching deadline from time to time. Upon establishment of the new switching deadline, the Companies would communicate the switching deadline to EGSs. Additionally, it should be clear that the EDC's switching deadline does not include the three-day contract rescission period provided in Interim Guideline G, which is the EGSs' responsibility.

To alleviate potential customer frustration and disappointment, EGSs should remain aware of the EDC meter-reading schedule, clearly communicate the estimated switch date with the customer (such as in the marketing information provided for in Interim Guideline E and the written disclosure statement outlined in Interim Guideline G), and submit the enrollment prior to the switching deadline. If EGSs send batch enrollments rather than sending them individually to the EDC, and if such batch enrollments are not sent prior to the switching deadline for the affected customer accounts, removal of the ten-day waiting period may not accelerate switching. To that end, the Companies recommend the following change to Interim Guideline E:

E. Meter Read Date; Switching Deadline.

3. In marketing generation service to a customer, an EGS [~~should~~] shall provide information about the customer's meter read date, the switching deadline and the estimated date that the customer's account will be transferred to the EGS so that the customer will understand the switching process.

This recommended change to Interim Guideline E is consistent with Interim Guideline H, which requires that the disclosure statement "shall" include information about the length of the agreement, the starting date for service with the EGS, and a good faith estimate of the starting date of service based upon the customer's next immediate meter read date and the switching deadline. Additionally, Interim Guideline K should include the following additional text regarding the switching deadline:

K. EDC Transfer of Customer Account.

1. An EDC or DSP shall transfer the customer's account to the selected EGS at the beginning of the first feasible billing period following the submission of an account transfer notice from the EGS that is received by the EDC or DSP before the switching deadline. An account transfer notice that is not received by the EDC or DSP before the switching deadline shall not occur until the meter reading date subsequent to the immediate meter read date. This guideline is consistent with 52 Pa. Code § 57.174 (relating to time frame requirement).

By including the suggested additional text, the guideline would address situations where an EGS does not submit an account transfer notice to an EDC or DSP before the switching deadline, thereby removing any potential confusion over how such instances are to be handled.

Interim Proposal 3: EDCs, EGSs, and the Commission should provide consumer education focused on switching time frames to improve customer understanding of the process.

Consumer education as to how the switching process works and when the switch will occur should primarily rest with the EGS because it is the point of contact with the customer when it obtains the customer's authorization for the account transfer. While the EDC can include switching information on its website and provide information to its call center

representatives for use during customer calls to the EDC with shopping inquiries, consumer education focused on switching timeframes is best communicated during the time of contact between the EGS and the customer, when the switching information is fresh in the customer's mind and it is most important for customers to fully understand when such a switch will occur.

B. Interim Proposals for Consumer Education and Advanced Metering

The Commission has recommended the inclusion of more information on the Commission's PaPowerSwitch.com website, as well as recommending EDCs and EGSs review and update their educational materials to ensure that the information provided to customers reflects any changes in the switching process. The Companies agree with the Commission's recommendations to update any communication channels to appropriately reflect any changes in the switching process.

With regard to advanced metering, the Commission has dismissed for now the use of mid-cycle meter reads as an interim measure to shorten the switching process. The Commission views such a measure as impractical due to the fact that significant overhauls of EDCs' present meter and billing systems will be required for instantaneous or near-instantaneous switching to occur.⁵ The Companies agree with the Commission's determination that such an interim measure is impractical at this time. The Companies' current metering and billing capabilities are an example of a system which is not capable of processing an enrollment using a mid-cycle or off-cycle meter read (as opposed to using a meter read according to the regular meter-reading schedule).

However, the Commission opines that the implementation of smart meter technology may be the appropriate vehicle to pursue a requirement of a mid-cycle meter read as a means to shorten the switching process. The Companies have concerns with regard to any expectations

⁵ Tentative Order at 25.

for smart meter technology in shortening the switching process. Smart meter technology will offer a means to provide a two-way communication of more discrete metering information. Smart meter technology, in and of itself, is not necessarily designed to accommodate an enrollment using a mid-cycle or off-cycle meter read, as such a function is intrinsically tied to the EDC's billing system. The Companies' billing and accounting system was not designed to accommodate short or extended bills on a routine basis. Therefore, the Companies will need to investigate the technical requirements and the affected business processes and changes needed to accommodate the handling within one billing cycle of a separation of usage into multiple generation suppliers, the effect on receivables and bill print activities, and how to analyze the entire cycle's usage for non-generation billing components. Since a great deal of analysis is needed to determine what changes would be necessary, what processes would be affected by the changes, and how such changes might be integrated into the EDC's infrastructure, the Companies are concerned that such an investigation will be complex and costly. Therefore, the costs to make such changes cannot yet be projected due to the fact that smart meter technology is only one piece of a complex puzzle for processing an enrollment using a mid-cycle or off-cycle meter read.

C. Other Issues

The Commission anticipates that a Final Order will set an effective date for the Interim Guidelines ninety days following the order's entry date. The Companies are concerned that ninety days may not be adequate for implementation of the necessary modifications if EDI changes are needed. On page 23 of the Tentative Order, the Commission recognizes that the Electronic Data Exchange Working Group ("EDEWG") will need to review the potential for changes and/or the development of new EDI transactions, as well as whether what is being

considered is technically feasible and will not affect other critical EDI processes. Also, as noted by the Commission, because EDEWG has many issues pending in its queue at any one time, the necessary EDI changes will have to be communicated to EDEWG at the earliest possible time, along with a priority assessment so that EDEWG can place the changes in the queue as appropriate.⁶ Therefore, it may be premature to set an effective date until the technical feasibility and timeframe for such changes is determined. At the least, the effective date should be no earlier than 150 days following the order's entry date, in order to complete the anticipated programming that would be required. In addition, the Companies are precluded from implementing the types of system changes that would be necessary under these Proposed Guidelines prior to June 1, 2012 due to the upcoming incorporation of the former Allegheny Energy, Inc. companies into one integrated SAP system.

On a related note, the Companies recommend the following change to Interim Guideline M with regard to the use of an EDI transaction to rescind an account transfer:

M. EGS Rescission of Account Transfer.

2. An EGS [~~may~~] shall use an established EDI transaction to rescind the account transfer.

This recommended change reconciles with the Commission discussion that the guideline provides that an EGS "shall" use an established EDI transaction to rescind the account transfer.⁷

Finally, the Commission has also indicated an interest in receiving comments on the costs expected to be incurred and any savings that might be realized by affected parties in implementing the proposed Interim Guidelines. If there are no changes to the proposed Interim Guidelines, the costs incurred by the Companies would primarily be attributable to programming changes associated with any changes to EDI. However, because such changes are not yet

⁶ Tentative Order at 8.

⁷ Tentative Order at 21.

known, the Companies cannot at this time estimate the magnitude of such costs. Also, because the Commission proposes to replace the ten-day confirmation letter with an account transfer letter, there would likely be no savings for the Companies as a result of implementing the proposed Interim Guidelines. However, savings would occur if the Commission determines that the account transfer letter is duplicative with information in the disclosure statement of Interim Guideline H, and subsequently orders an elimination of both the ten-day confirmation letter and the account transfer letter. In such a scenario, savings to the EDC would be a reduction in paper, production and postage costs.

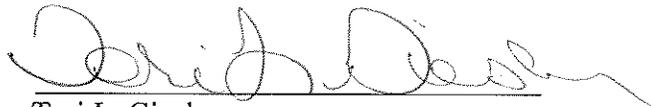
Also, as noted above, while the Companies do not oppose an acceleration of the switching timeframe consistent with these comments, they do have concerns with the potential for EDCs to incur significant costs associated with modifying their systems, perhaps multiple times. System modifications will be required to implement any final proposals directed by the Commission. To the extent the nature of the procedural method by which these guidelines are being proposed (and potentially adopted) is later found to be procedurally defective, and the directives contained therein are subsequently overturned or reversed, any costs which EDCs incur to modify their systems again, or undo the initial changes, must be fully recoverable.

III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company appreciate the opportunity to provide comments on the interim proposals and guidelines, and request that the Commission consider these comments in its development of a Final Order in this matter.

Respectfully submitted,

Dated: December 14, 2011



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Interim Guidelines Regarding Standards :
for Changing a Customer's Electricity : Docket No. M-2011-2270442
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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