



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Teresa K. Schmittberger  
Direct Dial: 717.237.5270  
Direct Fax: 717.260.1688  
tschmittberger@mwn.com

February 1, 2012

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

**VIA HAND DELIVERY**

**RE: Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan;  
Docket No. I-2011-2237952**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the original and five (5) copies of the Reply Comments of the Industrial Energy Consumers of Pennsylvania ("IECPA"), Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customers Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups") in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and Reply Comments, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Teresa K. Schmittberger

Counsel to the Industrial Customer Groups

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c: Office of Competitive Market Oversight Retail Markets Investigation (via e-mail)  
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation of Pennsylvania's  
Retail Electricity Market:  
Intermediate Work Plan

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Docket No. I-2011-2237952

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**REPLY COMMENTS OF THE INDUSTRIAL CUSTOMER GROUPS**

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SECRETARY'S BUREAU

Pamela C. Polacek (PA I.D. No. 78276)  
Teresa K. Schmittberger (PA I.D. No. 311082)  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300

Counsel to Industrial Energy Consumers of  
Pennsylvania, Duquesne Industrial Intervenors,  
Met-Ed Industrial Users Group, Penelec Industrial  
Customer Alliance, Penn Power Users Group,  
Philadelphia Area Industrial Energy Users Group,  
PP&L Industrial Customer Alliance, and West Penn  
Power Industrial Intervenors

Dated: February 1, 2012

## I. INTRODUCTION

The Pennsylvania Public Utility Commission's ("Commission") received a number of Comments regarding its Intermediate Work Plan, proposed in a Tentative Order issued December 15, 2011. The Intermediate Work Plan was adopted as part of the Investigation of Pennsylvania's Retail Electricity Market, and included recommendations for how electric distribution companies ("EDCs") and electric generation suppliers ("EGSs") could encourage increased customer electric shopping through retail enhancement programs. Comments were due at the Commission on January 17, 2012, and Reply Comments must be submitted no later than February 1, 2012.

The Industrial Energy Consumers of Pennsylvania ("IECPA") is an association of energy-intensive industrial companies operating facilities across the Commonwealth of Pennsylvania. IECPA's members consume in excess of 25% of the industrial electricity in Pennsylvania and employ approximately 41,000 workers. Also sponsoring these Comments are coalitions of industrial customers receiving service from most of the Commonwealth's EDCs: Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups").

Because the Industrial Customer Groups use substantial volumes of electricity, their customer information maintained by EDCs reflects highly confidential aspects of their businesses. As Large Commercial and Industrial ("C&I") customers, information about their electricity usage in particular indicates when their manufacturing or operational processes are occurring. Given the confidential nature of this information, the EDC must act as the gatekeeper

to ensure that only those entities authorized are able to access a customer's information. Furthermore, Large C&I customers already participate in electric shopping, and do not require retail enhancement programs to encourage this participation. As a result, any cost recovery for these programs from customers should be contained to other customer classes.

## II. REPLY COMMENTS

As discussed in the Industrial Customer Groups' January 17, 2012 Comments, Letters of Authorization ("LOAs") do not provide EGSs with blanket authorization to access a customer bill, and only authorize EGSs to access customer data for the limited purpose of preparing a customer's bid. The FirstEnergy Corporation ("FirstEnergy") Companies, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company, agreed that LOAs do not permit EGSs to access bills from EDCs, and explained that providing customer bills to EGSs is not within the Companies' operational capacities.<sup>1</sup> Duquesne Light Company ("Duquesne") also stated that customer bills are not released to EGSs without the customer's consent, and Duquesne's LOAs, as written, do not elicit such consent.<sup>2</sup> By contrast, the Retail Energy Supply Association ("RESA") commented that there are some circumstances in which EGSs might benefit from access to a customer's EDC bill, and therefore, customer bills should be available to EGSs.<sup>3</sup> RESA further contended that EDCs should assume EGSs are authorized to receive customer data, and should not require a LOA or other documentation before releasing a customer's bill or other information to the EGS.<sup>4</sup>

Considering the Comments of the FirstEnergy Companies and Duquesne Light Company, there is little doubt that LOAs do not authorize EGSs to access customer bills from EDCs. Thus,

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<sup>1</sup> Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company at 31 (January 17, 2012).

<sup>2</sup> Comments of Duquesne Light at 33 (January 17, 2012).

<sup>3</sup> Comments of the Retail Energy Supply Association at 18 (January 17, 2012).

<sup>4</sup> *Id.*

only the EGS contracted with a customer may access the customer's EDC bill, and only after the customer provides consent. If a customer has a problem with a particular bill, it is not an excessive burden for the customer to e-mail or fax a copy of the bill to its customer service representative at the EGS so the EGS can attempt to resolve the problem.

With respect to other customer usage data, including rate schedules, load profiles, transmission/capacity obligations, and tax status, the Industrial Customer Groups likewise agree that it is reasonable for an EGS serving a customer to access that specific customer's data, unless the customer has requested for certain data to be withheld. Nevertheless, once the customer's contract with the EGS ends, the ability for the EGS to access the customer's data and bills from the customer's EDC should be automatically revoked. If the customer restricts all information from the Eligible Customer List, no EGSs or entities may access the customer's usage data, unless the customer has specifically authorized access for that entity.

The Large C&I customer's usage data gathered by an EDC may reflect important internal decisions by the customer, which could be used by competitors to develop pricing strategies to the customer's disadvantage. This usage information is private, and must be treated as highly confidential by the EDC to protect the viability of Pennsylvania businesses and industries. Similar to a physician who is authorized by his or her patient to review the patient's medical records, an EDC is permitted access to all customers' private electric purchase and usage decisions solely because of its special relationship with the customer. Just as a physician may not release medical records to a third party without specific authorization because the doctor assumes it is permissible, an EDC cannot release a customer's usage data because it assumes the customer is dealing with the EGS. Explicit customer consent should be necessary before the

customer's private information is released to other entities. Accordingly, contrary to the beliefs of RESA, the EDC must act as a gatekeeper for customer data.

Additionally, in response to many stakeholders who commented regarding the cost recovery procedures for the proposed retail enhancements within the Tentative Order, including customer education, customer referral programs, and opt-in auctions, the Industrial Customer Groups believe that none of these program costs should be collected from Large C&I customers. As further detailed in the Industrial Customer Groups Comments dated November 23, 2011 in this docket, these programs are not proposed to apply to Large C&I customers, nor can they benefit Large C&I customers in any way. The Commission explicitly stated within the Tentative Order that the customer education mailings should only be sent to residential and small commercial customers, and the customer referral programs and opt-in auctions should not be open to Large C&I customers. The Industrial Customer Groups recommend that EGSs should be responsible for all retail enhancement costs, because EGSs directly benefit from the increased competitive customer base created by these programs. However, if the Commission proposes a combination cost recovery from both customers and EGSs, the costs of these programs should be contained to the customer classes who will benefit, i.e., the residential and small commercial customers.

**WHEREFORE**, the Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek (PA I.D. No. 78276)  
Teresa K. Schmittberger (PA I.D. No. 311082)  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300

Counsel to Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors

Dated: February 1, 2012

## 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).

### VIA E-MAIL AND HAND DELIVERY

Office of Competitive Market Oversight  
Retail Markets Investigation  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120  
[ra-RMI@state.pa.us](mailto:ra-RMI@state.pa.us)

Johnnie E. Simms, Esquire  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120  
[josimms@state.pa.us](mailto:josimms@state.pa.us)

H. Kirk House  
Office of Special Assistants  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 3<sup>rd</sup> Floor East  
Harrisburg, PA 17120  
[hhouse@pa.gov](mailto:hhouse@pa.gov)

Steven C. Gray, Esquire  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North Second Street  
Harrisburg, PA 17101  
[sgray@state.pa.us](mailto:sgray@state.pa.us)

Daniel Mumford  
Bureau of Consumer Services  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor East  
Harrisburg, PA 17120  
[dmumford@pa.gov](mailto:dmumford@pa.gov)

Darryl Lawrence, Esquire  
Aron J. Beatty, Esquire  
Jennedy S. Johnson, Esquire  
Tanya J. McCloskey, Esquire  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Forum Place  
Harrisburg, PA 17101-1923  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)  
[abeatty@paoca.org](mailto:abeatty@paoca.org)  
[jjohnson@paoca.org](mailto:jjohnson@paoca.org)  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)

### VIA E-MAIL AND FIRST CLASS MAIL

Gary A. Jack, Esq.  
Duquesne Light Company  
411 Seventh Ave. 16-1  
Pittsburgh, PA 15219  
[gjack@duqlight.com](mailto:gjack@duqlight.com)

Theodore S. Robinson, Esq.  
Citizen Power  
212 Murray Avenue  
Pittsburgh, PA 15217  
[robinson@citizenpower.com](mailto:robinson@citizenpower.com)

SECRETARY'S BUREAU  
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RECEIVED

Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak LLP  
P.O. Box 1778  
100 North Tenth Street  
Harrisburg, PA 17101  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Paul E. Russell, Esq.  
Associate General Counsel  
PPL Electric Utilities, Inc.  
Two North Ninth Street  
Allentown, PA 18108-1179  
[perussell@pplweb.com](mailto:perussell@pplweb.com)

Daniel Clearfield, Esquire  
Deanne O'Dell, Esquire  
Carl R. Shultz, Esquire  
Eckert Seamans Cherin & Mellott LLC  
213 Market Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17108-1248  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[cshultz@eckertseamans.com](mailto:cshultz@eckertseamans.com)

Bradley A. Bingaman, Esquire  
Tori L. Giesler, Esquire  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading PA 19612-6001  
[bbingaman@firstenergycorp.com](mailto:bbingaman@firstenergycorp.com)  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)

Anthony E. Gay, Esquire  
Jeanne J. Dworetzky, Esquire  
Exelon Business Services Company  
2301 Market Street  
PO Box 8699  
Philadelphia, PA 19101  
[anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)  
[jeanne.dworetzky@exeloncorp.com](mailto:jeanne.dworetzky@exeloncorp.com)

Linda R. Evers, Esquire  
Stevens & Lee  
111 N. Sixth Street  
P.O. Box 679  
Reading, PA 19603-0679  
[lre@stevenslee.com](mailto:lre@stevenslee.com)

Michael A. Gruin, Esquire  
Stevens & Lee  
17 North Second Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101  
[mag@stevenslee.com](mailto:mag@stevenslee.com)

Dana Pirone Carosella, Esquire  
Stevens & Lee  
620 Freedom Business Center, Suite 200  
King of Prussia, PA 19406  
[dpc@stevenslee.com](mailto:dpc@stevenslee.com)

Chris Hendrix  
Wal-Mart Stores, Inc.  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, AR 72716  
[chris.hendrix@wal-mart.com](mailto:chris.hendrix@wal-mart.com)

Harry S. Geller, Esquire  
Patrick M. Cicero, Esquire  
PA Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101-1414  
[PULP@palegalaid.net](mailto:PULP@palegalaid.net)

Michael Meath, President  
Strategic Communications, LLC  
3532 James Street, Suite 106  
Syracuse, NY 13206  
[mmeath@stratcomllc.com](mailto:mmeath@stratcomllc.com)

Frank Caliva, III  
Strategic Communications LLC  
1012 14<sup>th</sup> Street NW, Suite 1106  
Washington, DC 20005  
[fcativa@stratcomllc.com](mailto:fcativa@stratcomllc.com)

Craig G. Goodman  
Stacey Rantala  
National Energy Marketers Association  
3333 K Street NW Suite 110  
Washington, DC 20007  
[cgoodman@energymarketers.com](mailto:cgoodman@energymarketers.com)  
[srantala@energymarketers.com](mailto:srantala@energymarketers.com)

Elizabeth R. Marx, Esq.  
Pennsylvania Coalition Against  
Domestic Violence  
3605 Vartan Way  
Harrisburg, PA 17110  
[erm@pcadv.org](mailto:erm@pcadv.org)

Terrance J. Fitzpatrick  
Energy Association of Pennsylvania  
800 North Third Street, Suite 205  
Harrisburg, PA 17102  
[tfitzpatrick@energypa.org](mailto:tfitzpatrick@energypa.org)

Richard Hudson  
Director of Energy Affairs  
ConEdison Solutions  
1102 Park Square  
Munhall, PA 15120  
[hudsonr@conedsolutions.com](mailto:hudsonr@conedsolutions.com)

Madelon Kuchera  
BlueStar Energy Services  
363 West Erie Street  
Chicago, IL 60654  
[mkuchera@bluestarenergy.com](mailto:mkuchera@bluestarenergy.com)

Scott J. Schwarz, Esq.  
City of Philadelphia  
1515 Arch Street, 16<sup>th</sup> Floor  
Philadelphia, PA 19102-1595  
[scott.schwarz@phila.gov](mailto:scott.schwarz@phila.gov)

Brian J. Knipe  
Buchanan Ingersoll & Rooney, PC  
17 North Second Street, 15<sup>th</sup> Floor  
Harrisburg, PA 17105-1503  
[brian.knipe@bipc.com](mailto:brian.knipe@bipc.com)

Jay Kooper  
Director of Regulatory Affairs  
Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095  
[jkooper@hess.com](mailto:jkooper@hess.com)

Thu B. Tran, Esq.  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102  
[ttran@clsphila.org](mailto:ttran@clsphila.org)

Courtney Lane  
Citizens for Pennsylvania's Future  
1500 Walnut Street, Suite 502  
Philadelphia, PA 19102  
[lane@pennfuture.org](mailto:lane@pennfuture.org)

Benjamin L. Willey  
Law Offices of Benjamin L. Willey LLC  
7272 Wisconsin Avenue, Suite 300  
Bethesda, MD 20814  
[blw@bwilleylaw.com](mailto:blw@bwilleylaw.com)

Elise Caplan  
Project Manager  
American Public Power Association  
1875 Connecticut Avenue, NW  
Washington, DC 20009  
[ecaplan@publicpower.org](mailto:ecaplan@publicpower.org)

Ray Landis, Advocacy Manager  
AARP  
30 N. 3<sup>rd</sup> Street, Suite 750  
Harrisburg, PA 17101  
[rlandis@aarp.org](mailto:rlandis@aarp.org)

Amy M. Klodowski, Esquire  
FirstEnergy Solutions Corp.  
800 Cabin Hill Drive  
Greensburg, PA 15601  
[aklodow@firstenergycorp.com](mailto:aklodow@firstenergycorp.com)

Divesh Gupta, Esquire  
David Fein  
Constellation Energy  
100 Constellation Way, Suite 500C  
Baltimore, MD 21202  
[divesh.gupta@constellation.com](mailto:divesh.gupta@constellation.com)  
[david.fein@constellation.com](mailto:david.fein@constellation.com)

Noel Trask, Esquire  
Exelon Business Services Company  
300 Exelon Way  
Kennett Square, PA 19348  
[noel.trask@exeloncorp.com](mailto:noel.trask@exeloncorp.com)

Harry Kingerski  
Spark Energy, L.P.  
2105 CityWest Blvd, Suite 100  
Houston, TX 77042  
[hkingerski@sparkenergy.com](mailto:hkingerski@sparkenergy.com)

Mark C. Morrow, Esquire  
UGI Utilities, Inc.  
460 North Gulph Road  
King of Prussia, PA 19406  
[mmorrow@ugicorp.com](mailto:mmorrow@ugicorp.com)

John J. Gallagher, Esquire  
711 Forrest Road  
Harrisburg, PA 17112  
[jgallagher@jglawpa.com](mailto:jgallagher@jglawpa.com)

Enver Acevedo, Esquire  
Consolidated Edison Company, Inc.  
4 Irving Place  
New York, NY 10003  
[acevedoe@coned.com](mailto:acevedoe@coned.com)

Melanie J. Elatieh, Esquire  
UGI Corporation  
460 North Gulph Road  
King of Prussia, PA 19406  
[elatiehm@ugicorp.com](mailto:elatiehm@ugicorp.com)

**VIA FIRST-CLASS MAIL**

Honorable Camille George  
Pennsylvania House of Representatives  
38B East Wing  
Harrisburg, PA 17120-2020

Edward V. Johnstonbaugh  
Future Times Energy Aggregation Group  
474 Justabout Road  
Venetia, PA 15367

Tim Locascio  
Manager  
Liberty Power Corp.  
1970 West Cypress Creek Road, Suite 600  
Fort Lauderdale, FL 33309

Honorable Phyllis Mundy  
120<sup>th</sup> Legislative District  
36 East Wing  
P.O. Box 202120  
Harrisburg, PA 17120-2120

David S. Cohen  
President  
Rescom Energy LLC  
20 East Avenue  
Bridgeport, CT 06610

Dr. Vera J. Cole  
Mid-Atlantic Renewable Energy  
Association  
2045 Upper Rocky Dale Road  
Green Lane, PA 18054

Harry A. Warren, Jr.  
Washington Gas Energy Services, Inc.  
13865 Sunrise Valley Drive, Suite 200  
Herndon, VA 20171-4661

Christopher C. O'Hara, Esq.  
NRG Energy Inc.  
211 Carnegie Center Drive  
Princeton, NJ 08540



---

Teresa K. Schmittberger

Counsel to the Industrial Customer Groups

Dated this 1<sup>st</sup> day of February, 2012, at Harrisburg, Pennsylvania