

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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May 20, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: EDC Customer Account Number Access
Mechanism for EGSS
Docket No. M-2013-2355751

Dear Secretary Chiavetta:

Enclosed for filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

If you have any questions, please feel free to contact me at the number listed above.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jennedy S. Johnson".

Jennedy S. Johnson
Assistant Consumer Advocate
PA Attorney I.D. # 203098

Enclosure

cc: Office of Competitive Market Oversight
Retail Markets Investigation (E-Mail only)
Patricia Wiedt, Law Bureau
Dan Mumford, Manager – Bureau of Consumer Services

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EDC Customer Account Number :
Access Mechanism for EGSs : Docket No. M-2013-2355751

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: May 20, 2013

I. INTRODUCTION

The Office of Consumer Advocate (OCA) files these Comments in accordance with the Pennsylvania Public Utility Commission's (Commission) Tentative Order entered April 18, 2013. EDC Customer Account Number Access Mechanism for EGSs, Docket No. M-2013-2355751 (Tentative Order entered April 18, 2013) (Tentative Order). In its Tentative Order, the Commission sought comment on the proposal of the Commission's Office of Market Oversight (OCMO) that provides procedures to facilitate Electric Generation Supplier (EGS) access to the Electric Distribution Company (EDC) account numbers of newly enrolled EGS customer where the account number is not available from the customer or the Eligible Customer List (ECL). Tentative Order at 1. The OCA agrees with the Commission that proposals regarding the release of customer information in this manner raise important policy considerations including customer privacy, verification and reporting requirements as well as who should pay for any system modifications. The OCA appreciates the opportunity to comment on this issue and provides the following in response to the specific questions presented in the Commission's Tentative Order.

II. COMMENTS

The Commission requested comment on the following thirteen issues:

1. *EDCs may propose using different technologies to provide account numbers. If so, how much variation among utilities would be too confusing or burdensome upon the suppliers using the systems?*

The OCA has no comment on this issue.

2. *Technologies that have been discussed include the internet, interactive voice response (IVR) telephone and electronic data exchange (EDI). Are some technologies preferable to others and if so, why?*

The OCA submits that the technology selected should be the one that best ensures customer privacy and best protects sensitive customer data.

3. *In providing account numbers, should there be limits on the response time back from the EDC, and if so, should the timeframes be dependent upon the technology being used?*

The OCA has no comment on this issue.

4. *What specific identifying data should a supplier be required to submit to the EDC to get an account number? At a minimum, should a customer's name and address be required?*

In order to ensure, to the extent reasonably possible, that a customer is who he or she says they are, and in order to avoid issues related to slamming, the OCA submits that EGSs must, at a minimum, provide the customer's name and address in the EDI transaction. This information would be readily available to the EGS as it is the fundamental information required to enroll in EGS service. The OCA would note that this information should be provided *in addition to* the EGS verification that it has a customer-signed LOA. The OCA views such verification as a necessary requirement to ensure that customers are not being slammed, and therefore recommends that the verification be a mandatory portion any EDI process developed. Additionally, requiring the EGS to verify that it has a signed LOA will alleviate the EDC concerns about being held accountable for slamming or unauthorized EGS enrollment as the burden of proof of enrollment would rest with the EGS.

5. *What level of precision is necessary to ensure accurate data?*

The OCA has no comment on this issue.

6. *The amount and recovery of costs could vary by EDC and by the technology used. If there are significant costs, can they be estimated at this time? Who should be responsible for those costs and what mechanisms should be used to assess and collect costs?*

The OCA believes that the costs of the transactions, as well as the costs of any EDC software or IT systems modifications appropriately rest with the EGSs doing business in each EDC's territory. The need for this sort of transaction arises from the EGS's specific in-person marketing strategies and the implementation of this procedure will save EGS from having

to take further steps to locate the customer's account number. Therefore, these costs of doing business are appropriately borne by the EGSs themselves.

7. *What safeguards are needed to ensure that account numbers are accurately communicated and provided only to the customer and supplier involved?*

The OCA strongly recommends that the Commission take this opportunity to make it clear that any EGS who utilizes this system to obtain customer account numbers is fully accountable for any security breach, improper release of data, or any misuse of data by any of its staff, agents or contractors – no matter how far down the line. The Commission should make clear it has zero tolerance for such violations and that such violations of privacy will result in the revocation of the EGS' license, just as the Commission has made clear that violations of the Marketing Guidelines will be met with such enforcement. See Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers, Docket M-2010-2185981, *slip op.* at 7 (November 5, 2010).

The OCA also submits that, as discussed above, requiring each EGS to affirmatively verify that it has a customer-signed LOA as part of any account number request would provide an important safeguard for both the customer and the EDC.

8. *What information and format should be required in an LOA?*

The OCA submits that the size and scope of the example LOA attached to the Commission's Tentative Order is an excellent guide for formatting. The OCA agrees that the customer's name, mailing address, telephone number and—most importantly—signature should be required on any LOA. The font must also be of a sufficient size. In the example provided, the explanation that the signed document would allow the EGS to look up the customer's account number appears twice—once in large font at the top of the authorization and once under

the customer signature line. The OCA submits that this “double-notice” is an important protection and should be incorporated in any LOA design.

9. *Are there possible reporting requirements that should be developed so that the Commission can monitor the effectiveness and security of the systems? This could include things like the total number of account numbers provided and the number of complaints or problems associated with the provision of account numbers under these mechanisms.*

Due to the sensitive nature of the information being provided, the OCA supports the development of reporting requirements for the use of LOAs. The OCA agrees that requiring reporting on information such as total number of account numbers provided and number of complaints or problems associated with providing the information will be helpful to ensure that customer data is not being misused. The OCA recommends that additional EGS-specific granularity be provided. That is, any reporting done by EDCs should be broken down on an EGS by EGS basis. This will allow the Commission to quickly determine any patterns of misuse, complaints or customer dissatisfaction that may arise.

10. *What are the appropriate sales channels that would be authorized to use this process?*

The OCA respectfully requests that the Commission make clear that this process is limited to instances of selling at public venues such as malls, festivals, markets and the like. In these venues, it is usually the customer initiating the sales contact at the time and place of the customer’s choosing and in a public setting. Because of the voluntary nature of these interactions, customers may not feel the same pressure or intrusion that may be experienced with door-to-door or telephone marketing. Therefore, the OCA submits that the Commission should specifically limit this LOA account number look-up procedure to marketing in public venues. In its Order, the OCA requests that the Commission specify that this account look-up procedure cannot be used for door-to-door solicitation.

11. *What process should the EDCs use to develop their solutions, including the level of stakeholder involvement and Commission oversight?*

The OCA supports, to the extent possible, the development of a state-wide process for accessing customer account numbers using the LOA. As was discussed above, the OCA submits that the process should incorporate an affirmative EGS responsibility to verify through its EDI transaction that it has a signed customer LOA. By requiring this affirmative step, an EGS who utilizes this system to obtain customer account numbers can be held fully accountable for any security breach, improper release of data, or any misuse of data by any of its staff, agents or contractors – no matter how far down the line. This should provide a measure of relief to both EDCs and customers alike.

12. *What are reasonable timeframes for the development and implementation of these systems?*

The OCA has no comment on this issue.

13. *Are there any other concerns, suggestions or questions that the Commission needs to address?*

As was discussed above, the OCA submits that an affirmative EGS verification that it has a customer-signed LOA should be included as part of any account look-up procedure. The OCA views such verification as a necessary requirement to ensure that customers are not being slammed, and therefore recommends that the verification be a mandatory portion any EDI process developed. This verification could be achieved by the inclusion of a check box as part of the EDI transaction, or by some other sort of affirmative step that each EGS must take before being able to submit the request. The OCA submits that this mandatory confirmation of a customer-signed LOA would provide an important safeguard for both the customer and the EDC.

III. CONCLUSION

The OCA appreciates this opportunity to provide Comments on the Tentative Order. The OCA respectfully requests that the Commission take the steps outlined above to ensure that the LOA process for accessing customer account numbers contains the appropriate customer protections.

Respectfully Submitted,



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Dated: May 20, 2013
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CERTIFICATE OF SERVICE

EDC Customer Account Number :
Access Mechanism for EGSs : Docket No. M-2013-2355751
:

I hereby certify that I have this day served a true copy of the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 20th day of May 2013.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Johnnie Simms, Esquire
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SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

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