



May 20, 2013

VIA E-Filing

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

**Re: EDC Customer Account Number Access Mechanism for EGSs
M-2013-2355751**

Dear Secretary Chiavetta:

On April 18, 2013, the Pennsylvania Public Utility Commission (“Commission”) issued a Tentative Order in *EDC Customer Account Number Access Mechanism for EGSs* at docket number M-2013-2355751 (“TO”). In its TO, the Commission sought comments on various issues and proposals that would allow electric generation suppliers (“EGSs”) access to electric distribution companies’ (“EDCs”) account numbers of customers seeking to enroll in generation supply service with an EGSs. In lieu of formal comments, the Pennsylvania Utility Law Project (“PULP”), on behalf of its low-income clients, offers the following brief comments and concerns in response to the inquiries posed by the TO.

PULP is a specialized statewide project of the Pennsylvania Legal Aid Network designated to assist low-income residential utility and energy consumers. For over 30 years, PULP has represented the interests of low income Pennsylvanians in energy and utility matters through direct representation, statewide advocacy, and support and assistance to the staff and clients of local legal aid programs, non-profits and community-based agencies. PULP staff has been actively involved in all phases the Commission’s Retail Markets Investigation as well as a participant in the CHARGE calls hosted by the Office of Competitive Market Oversight (“OCMO”).

The crux of the issue at hand is the appropriate balance between customer privacy and access by EGSs to a customer's EDC account number in order to complete enrollment of an authorized switch by the customer to EGS provided service. The TO describes the problem as "how an EGS in the process of enrolling a new customer can obtain a customer's account number from an EDC in instances when the customer's information is not on the [Eligible Customer List] and the customer is not able to provide an account number." TO at 2.

In the TO, the Commission outlined a number of concerns about which it seeks comments. Many of the concerns deal with logistical issues between the EDCs and the EGSs about what type of automation could or should be used to ensure an efficient exchange of the information sought at the least cost to participants and consumers. These are legitimate concerns, but for the purposes of brevity PULP provides only the following comments:

A. EGS should be required to obtain a Letter of Authorization (LOA), written in plain English, prior to requesting customer account numbers and other information for customers who are not on the ECL.

PULP submits that no EGS should have access to customer account information, including a customer's account number, for a customer who is not on the ECL, unless it has first obtained the informed written consent of that customer which was executed specifically for that purpose. Customers who are not on the ECL have chosen to keep their account information private so as not to receive unsolicited offers from interested EGSs. As such, PULP believes that an EDC cannot release information about these customers unless it has confirmed that the inquiring EGS has obtained an LOA from the customer.

PULP submits that EDCs and EGSs should follow the following process, whether automated or manual.

First, prior to requesting any account information, EGSs should obtain a written LOA from the customer. The LOA should be a statewide form developed and approved by the Commission after stakeholder input. The LOA should state in plain and accessible language that the purpose of this authorization is for the EGS to obtain information from EDC about the customer, **including the customer's account number**, if the customer has not already provided the account number. PULP believes that it is important that the LOA be standardized so that the Commission has input and oversight concerning its contents. At the very least, the Commission should set forth required elements of the LOA.

Second, the EGS should be required to verify the customer's identity **prior** to having them sign the LOA. Doing so will lessen the likelihood that someone is posing as the customer and will introduce safeguards for victims of domestic violence to ensure that sensitive information is not disclosed without affirmative consent.

Third, the LOA should be executed in such a fashion so that the customer is provided with a copy of it at the time it is executed. This will ensure that the customer has the ability to review the document at a later time in the event that he or she wishes to revoke the authorization.

Fourth, EGSs should be required to retain the written LOA for the duration of the contract with the customer in addition to any periods set forth in Commission regulations.

Finally, upon receiving a request for a customer account number and other customer information from an EGS, whether automated or manually, the EDC should verify that the EGS has a signed LOA for the customer. While ideally the EDC would request a copy of the LOA prior to any release of information, the EDC should at the very least be required to have the EGS certify that such an LOA exists and has been retained in accordance with Commission regulations prior to the release of customer information.

B. The use of LOAs to obtain customer account numbers for those customers not on the ECL should be limited to only those contacts initiated by the customer not contacts initiated by an EGS or its agents.

The TO seeks comments about how broad in scope the permission for EGSs should be to request customer account numbers for customers who do not have their account number but and are not on the ECL. PULP submits that EGSs should be limited to using an LOA to obtain customer account information to only those circumstances where the customer initiates contact with the EGS. In the hypothetical situation that is the subject of the TO, a customer at a mall, tradeshow, or other public place has approached a booth sponsored by an EGS. The customer wishes to enroll with the EGS but because the customer is in a public place he or she does not have access to his or her account number. In these circumstances, with affirmative written consent of the customer, an LOA seems like an appropriate safeguard. This is not the case when the contact is initiated by the EGS through door-to-door marketing, telemarketing, or some other format. Customers who have opted-out of the ECL have chosen not to make their sensitive utility account information public. If these customers are contacted by an EGS in their homes or on their telephones it seems prudent to insist that the customer provide his or her account number to the EGS prior to enrollment.

First, these customers are much more likely to have ready access to this information because they are likely to be in their homes at the time of the marketing activity. Second, customers who were contacted by the EGS to switch, as opposed to those customers who initiate contact

themselves, may be much more reluctant to provide their account number to an EGS and thus insist that the account number is not readily available. For an EGS to be able to obtain the account information for these customers through the use of an LOA invites the potential for bad actors to pressure individuals into signing an LOA as a means of facilitating the transaction without the customer's full knowledge or consent of what it is that they are signing.

Door-to-door sales and telemarketing calls are in tension with the kind of informed decision making contemplated by the Choice Acts as both tend to be high-pressure, one-sided presentations intended to persuade a customer that the agent's product is "the right" one, perhaps the only one, for the customer. This kind of interaction is more likely to result in a consumer being swayed by a good sales pitch rather than making a well informed decision. As such, PULP submits that for those customers not on the ECL, that the customer, and only the customer, should supply his or her account number to the EGS. EGSs should be required to obtain the customer's account number from the customer prior to enrollment with the EGS and should not be permitted to obtain this information from the EDC even with a properly executed LOA. The risk of unauthorized disclosure in this context outweighs the inconvenience to the EGS of a customer who must obtain their account number prior to enrollment.

C. Conclusion

PULP appreciates the attention to which the Commission has given this issue. It is vitally important that while innovating efficiency for the enhancement of the competitive electric market that the Commission maintain vigilance in protecting confidential and sensitive customer account information from unauthorized disclosure. Please do not hesitate to contact the undersigned should you have questions, concerns, or desire additional feedback on anything discussed in these comments.

Respectfully submitted,
Pennsylvania Utility Law Project
On behalf of its low-income clients



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