

Deanne M. O'Dell
717.255.3744
dodell@eckertseamans.com

October 19, 2018

Via Electronic Filing

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

Re: Stakeholder Collaborative and Request for Comments re: FirstEnergy Customer Referral Program Scripting and CAP Shopping Program Implementation
Docket Nos. P-2017-2637855; P-2017-2637857; P-2017-2637858; and P-2017-2637866

Dear Secretary Chiavetta:

Please accept this letter on behalf of the Retail Energy Supply Association (“RESA”)¹ in response to the Commission’s Secretarial Letter dated September 6, 2018. In that Secretarial Letter, the Commission notified all interested stakeholders that it would be convening informal collaboratives, hosted by the Office of Competitive Market Oversight (“OCMO”), focused on two specific issues related to Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, “FirstEnergy”). These two issues are: (1) the customer referral standard offer program (“CRP”); and, (2) the implementation of restrictions on the ability of consumers enrolled in the customer assistance plan (“CAP”) to shop for competitive service provided by an electric generation supplier (“EGS”). The Secretarial Letter invited interested stakeholders to submit possible agenda items and established Monday, November 5, 2018 as the date on which the collaborative will be convened.² While Petitions for Reconsideration directly related to the scope of the collaborative have been filed by various parties, the Commission has not yet issued a decision on these petitions nor otherwise altered any of the directives or scheduling set forth in the September 6, 2018 Secretarial Letter.

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² While Petitions for Reconsideration directly related to the scope of the collaborative have been filed by various parties, the Commission has not yet issued a decision on these petitions nor otherwise altered any of the directives or scheduling set forth in the September 6, 2018 Secretarial Letter.

The purpose of this letter is to provide feedback for the Commission's consideration as this process moves forward. To be clear, the issues identified here are not intended to be an exhaustive list but rather to highlight some issues to be considered at this early stage. RESA reserves the right, to the extent necessary, to amend these suggestions as may be appropriate once the Commission addresses the pending Petitions for Reconsideration or during the collaborative process.

CRP Scripting

To effectively analyze why enrollment in FirstEnergy's CRP dropped by an average of 88% following implementation of the prior default service plan ("DSP IV"), RESA recommends that FirstEnergy be directed – in advance of the collaborative – to circulate the scripts utilized both before and after they were changed as a result of the DSP IV proceeding. Included with these materials should be the scripts utilized by both FirstEnergy and its third party vendor administering the CRP. RESA would also recommend that this information also specify any changes to FirstEnergy's processes resulting from DSP IV regarding the process and timing of when customers are informed about CRP and then transferred to FirstEnergy's third party vendor. Importantly, a full understanding of the customer's experience is important to help better understand what changes may have led to the decline in CRP enrollments. The customer's experience includes more than the scripting that is utilized.

RESA would also respectfully suggest that – in advance of the collaborative – other electric distribution companies ("EDCs") with similar standard offer programs be directed to share similar information. Given that these other utilities did not experience the decline in enrollment after implementation of their Commission-approved default service plans around the same time, this comparison would provide useful information for the Commission and stakeholders to consider during this collaborative process.

Restricting the ability of CAP participants to freely shop

There are a number of issues to be addressed to both: (1) transition existing EGS customers participating in CAP to the new requirements; and, (2) establish the operational protocols going forward to ensure that the new restrictions are viable. To help guide the work of the collaborative, below is a list of some issues that RESA recommends be addressed during the collaborative process:

- Transition process for existing EGS customers participating in CAP. These customers are under existing contracts with EGSs – contracts which likely include both fixed-duration and month-to-month contracts. As such, the process for when, how and who will notify these customers that their contracts will not be renewed in accordance with existing requirements must be addressed. RESA supports a flexible approach that allows EGSs to manage the notice of contract cancellation process based on their individual company's processes and abilities. Requiring EGSs to continue to send their "standard"

(and Commission required) initial and options notices³ only to send a third cancellation notice is inefficient and confusing. To be clear, RESA is not advocating that EGSs must be required to cancel these contracts prior to expiration but rather that the Commission provide EGSs the flexibility to manage the customer notice process more efficiently and to minimize customer confusion about shopping. EGSs are best positioned to determine the optimal way to communicate with their customers about changes being necessitated due to new Commission requirements.

- Operational processes. Since EGSs will be restricted regarding the offers that they can make available to FirstEnergy's CAP participants, operational processes need to be established to ensure that EGSs: (1) know that a potential customer is a CAP participant; and, (2) how enrollment in or out of the CAP program impacts the service of the EGS. Generally, RESA supports processes that would enable as many EGSs as possible to provide offers and would be reasonable for EGSs to operationalize. While specific EGSs are likely to offer company specific suggestions on this issue, generally RESA supports the use of EDI enrollment responses to communicate both the CAP status of a customer as well as any change in status. Also, RESA generally supports a flag on the ECL regarding CAP participation. Finally, EGS supports a regular on-going communication from FirstEnergy to the EGS identifying the CAP status of EGSs' existing customers.
- Enforcement. Upon direction and guidance from the Commission about what EGSs are permitted to offer CAP participants and the operational protocols to be established to enable coordination between FirstEnergy and the EGSs, RESA generally supports allowing the EGSs to design their systems accordingly. In other words, RESA does not support placing the EDC in the role of either "policing" EGSs or creating operational processes intended to act as handcuffs around EGS operations. Just as the Commission does currently with other customer protections and requirements, once the rules are established the Commission should permit EGSs to operate accordingly within the guideposts. To the extent EGSs are violating the requirements, then the Commission can exercise its enforcement authority on a case-by-case basis. This is an especially important consideration in this context because the competitive offers being made available to CAP participants are going to be limited. Unnecessarily confining or restrictively dictating how EGSs must comply with those requirements will likely only dissuade EGSs from offering service to these customers. Such a result is not a good outcome for CAP participants because a lack of EGSs willing to make competitive offers will only further deprive these customers of the ability to choose a competitive suppliers.

³ The Commission's regulations require EGSs to send existing fixed-duration contract customers two notices prior to contract expiration. The initial notice, to be sent 45-60 days prior to contract expiration, informs the customer of the expiration. 52 Pa Code § 54.10(1) The options notice, to be sent 30 days prior to the expiration, gives the customer information about the options he/she can exercise and if he/she does not take any action what will occur. 52 Pa. Code § 54.10(2). EGS contracts may also contain specific cancellation provisions which detail how and why the EGS may elect to cancel an existing contract. These provisions may also involve another notice that the EGS sends to the customer to cancel an existing contract.

RESA appreciates the opportunity to provide this feedback and looks forward to working with the Commission and other stakeholders as this process moves forward.

Sincerely,



Deanne M. O'Dell

DMO/lww
Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of RESA's Letter Comments upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email and/or First Class Mail

Tori Giesler, Esq.
Lauren Lepkoski, Esq.
Teresa K. Harrold
FirstEnergy Service Company
2800 Pottsville Pike
PO Box 16001
Reading, PA 19612-6001
tgiesler@firstenergycorp.com
llepkoski@firstenergycorp.com
tharrold@firstenergycorp.com

Allison C. Kaster, Esq.
Gina L. Miller, Esq.
PA Public Utility Commission
Bureau of Investigation & Enforcement
PO Box 3265
Harrisburg, PA 17101-3265
akaster@pa.gov
ginmiller@pa.gov

Darryl Lawrence Esq.
Hayley E. Dunn, Esq.
Christy M. Appleby, Esq.
Office of Consumer Advocate
555 Walnut St., 5th Floor, Forum Place
Harrisburg, PA 17101-1923
dlawrence@paoca.org
hdunn@paoca.org
cappleby@paoca.org

Elizabeth Rose Triscari, Esq.
Office of Small Business Advocate
300 N. Second Street, Suite 202
Harrisburg, PA 17101
etriscari@pa.gov

Patrick Cicero, Esq.
Kadeem G. Moris, Esq.
Elizabeth R. Marx, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net

Susan E. Bruce, Esq.
Charis Mincavage, Esq.
Vasiliki Karandrikas, Esq.
Alessandra L. Hylander, Esq.
McNees Wallace & Nurick LLC
1 00 Pine Street
P.O. Box 1166
Harrisburg, P A 17108
sbruce@mwn.com
cmincavage@mwn.com
vkandrikas@mwn.com
ahylander@mcneeslaw.com

Thomas J. Sniscak, Esq.
William E. Lehman, Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
welehman@hmslegal.com

Holly Rachel Smith, Esq.
Exelon Business Services Corp.
701 9th Street, NW Mailstop EP2205
Washington, DC 20068
Holly.Smith@exeloncorp.com

Todd S. Stewart, Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com

Charles E. Thomas III, Esq.
Thomas, Niesen & Thomas, LLC
212 Locust Street, Suite 302
Harrisburg, PA 17101
Cet3@tntlawfirm.com

Carl R. Shultz, Esq.
Eckert Seamans Cherin & Mellott
213 Market St., 8th Floor
Harrisburg, PA 17101
cshultz@eckertseamans.com

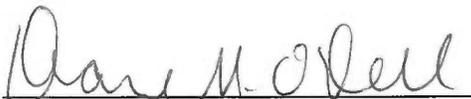
Via Hand Delivery and/ Email

Karen O. Moury, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com

Derek Rykaczewski, Esq.
Gexa Energy, L.P.
20455 State Highway 249, Suite 200
Houston, TX 77070
Derek.rykaczewski@gexaenergy.com

Kenneth C Springirth
4720 Cliff Drive
Erie, PA 16511

Dated: October 19, 2018


Deanne M. O'Dell, Esq.