



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG, PENNSYLVANIA 17120

IN REPLY PLEASE
REFER TO OUR FILE
M-2010-2183412

March 1, 2024

To: All Electric Generation Suppliers, Natural Gas Suppliers, Electric Distribution Companies, Natural Gas Distribution Companies, Bureau of Investigation and Enforcement, Office of Consumer Advocate and Office of Small Business Advocate.

Re: Guidelines for Eligible Customer Lists
Docket No. M-2010-2183412

With this Secretarial Letter, the Commission seeks comments from interested parties regarding the guidelines for the Eligible Customer Lists (ECLs) that Electric Distribution Companies (EDCs) make available to Electric Generation Suppliers (EGSs) and that Natural Gas Distribution Companies (NGDCs) make available to Natural Gas Suppliers (NGSs). The ECL, in general, includes a listing of those utility customers eligible for choice, along with customer addresses, rate class and load information.¹ Specifically, the Commission is interested in comments concerning the use of electronic methods to deliver communications to customers concerning the ECL, and the use of electronic methods for customers to respond to the utility with their ECL preferences.

Background

The Commission implemented the ECL via Order entered November 12, 2010, at Docket No. M-2010-2183412, outlining interim guidelines for EDCs' provision of ECLs. That Order provided for uniform categories of customer information to be made available to EGSs by EDCs and addressed customers' ability to restrict the inclusion of their information in the ECL.

On November 10, 2011, the Commission entered a Final Order on Reconsideration updating the interim ECL guidelines. Following subsequent processes, including informal and formal comments, the Commission adopted final ECL guidelines through the *ECL Order* on October 23, 2014. In relevant part, the *ECL Order* directs EDCs to conduct a solicitation every three years, beginning in the first quarter of 2015, to update their ECLs. These solicitations provide customers an opportunity to restrict the inclusion of their information in the ECL that is provided to EGSs. Customers who do

¹ Customer telephone numbers are not included on the ECL under any circumstances.

not respond to a solicitation are automatically included in the ECL unless they otherwise request to be excluded.

On August 15, 2013, the Commission entered a Final Order at Docket No. M-2012-2324075 establishing analogous requirements for Natural Gas Distribution Companies (NGDCs). Like the EDC-related Order noted above, the NGDCs were directed to conduct a solicitation every three years to update their ECLs and to provide customers an opportunity to restrict the inclusion of their information that is provided to NGSs.

On October 30, 2020, Duquesne filed a petition for a waiver (2021 ECL Petition) with the Commission at Docket No. P-2020-3022674 to expand email ECL service to include “e-communication customers” in addition to e-Billing customers for its 2021 ECL solicitation. E-communication customers are those residential customers who have not registered for e-Billing but have provided their email address to Duquesne and consented to receive electronic communications. The 2021 ECL Petition pertained only to the 2021 triennial ECL solicitation.

In the January 14, 2021 Order granting the 2021 ECL Petition (*January 14, 2021 Order*), the Commission determined that it was in the public interest to allow Duquesne to serve the 2021 ECL solicitation for e-communications customers, finding, in part, that doing so would “reduc[e] costs, will provide useful analytical information on the effectiveness of ECL solicitation by email, and is consistent with consumer preferences.” *January 14, 2021 Order* at p.7.

Pursuant to the *January 14, 2021 Order*, Duquesne conducted its 2021 triennial ECL solicitation electronically for customers who opted-in to electronic mailings of certain communications but have not opted for electronic mailings of bills. On December 30, 2021, at Docket No. P-2020-3022674, Duquesne provided a report to the Commission and stakeholders, as directed by the *January 14, 2021 Order*, with an evaluation of the electronic ECL solicitation and lessons learned (December 2021 Report).

By Petition filed September 29, 2023, Duquesne asserted that because the *ECL Order* only pertained to the 2021 solicitation, additional clarification is needed for the 2024 and subsequent solicitations. Duquesne contended that granting their Petition would be in the public interest because it would better align the ECL solicitation method with customer expectations and preferences, enable enhanced solicitation tracking and messaging, and substantially reduce costs borne by customers. Moreover, considering the successes of their 2021 ECL solicitation, including the high open rate for email solicitations and Duquesne’s actual cost savings, and Duquesne’s efforts to increase customer engagement in 2024, it would be in the public interest to allow Duquesne to

continue electronically distributing the ECL solicitations, including their 2024 ECL solicitation.

By a January 18, 2024 Opinion and Order (*January 18, 2024 Order*), the Commission granted, in part, and denied, in part, Duquesne's petition. The Commission found that allowing Duquesne to provide its solicitations to customers as requested would serve the public interest by reducing costs, providing useful analytical information on the effectiveness of ECL solicitation by email, and is consistent with consumer preferences. However, we agreed with the suggestions made by the OCA that Duquesne's request to expand email solicitation should only apply to the 2024 ECL solicitation period and not future solicitation periods, and that the request to expand email solicitation should apply only to Duquesne, and not to other EDCs. We further agreed with the OCA that we should initiate a proceeding to investigate the efficacy of email solicitation during the triennial ECL periods on a statewide basis and consider amendments to the current Interim Guidelines to better address consumers' preferences during future ECL solicitation periods. *January 18, 2024 Order* at p.8.

Accordingly, the Commission directed the Office of Competitive Market Oversight in conjunction with the Law Bureau to open a proceeding at Docket No. M-2010-2183412 to update the eligible customer list guidelines. *January 18, 2024 Order* at pp. 8-9. Further, while the *January 18, 2024 Order* was in reference to Duquesne Light and the EDCs and EGSs, we believe that it is appropriate to expand this proceeding to also consider the ECL guidelines for the NGDCs and NGSs, since the guidelines for the two industries are very similar and we think it is in the public interest to maintain consistency between the two industries as it relates to ECL processes. Similar processes will lessen the likelihood of confusion for consumers, utilities, and suppliers alike.

Request For Comments

The Commission is requesting comments from all interested parties on the guidelines that govern the ECL, especially the use of electronic methods in communicating with customers, in lieu of written notices sent via the U.S. Postal Service. We point parties to the above-noted *January 18, 2024 Order* for additional discussion and guidance on this topic. Upon review and consideration of the comments filed by the parties, the Commission will determine next steps in updating the ECL guidelines.

Interested parties are invited to file written comments at this docket within sixty (60) days of publication of this Secretarial Letter in the *Pennsylvania Bulletin*. Comments to this Secretarial Letter may be filed electronically through the Commission's e-filing system.² Alternatively, one original signed copy of comments may be filed with the Commission's Secretary at: Pennsylvania Public Utility Commission, Commonwealth Keystone Building 2nd Floor, 400 North Street, Harrisburg, PA 17120. All pages of filed comments, with the exception of a cover letter, must be numbered.

If you have any questions about this Secretarial Letter, please contact one of the following: Director of the Office of Competitive Market Oversight Daniel Mumford at dmumford@pa.gov or (717) 525-2084, Deputy Director of the Office of Competitive Market Oversight and Deputy Chief Counsel with the Law Bureau Kriss E. Brown at kribrown@pa.gov or (717) 787-4518.

Sincerely,



Rosemary Chiavetta
Secretary

cc: Jennifer Berrier, Executive Director
David Screven, Chief Counsel
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² <https://www.puc.pa.gov/efiling/default.aspx>