

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Retail Markets Working Group

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Docket No. M-00072009

**Comments of the Energy Association of Pennsylvania
to Proposed Guidelines for EGS Referral Programs**

I. Introduction

In April 2008, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) convened the Retail Markets Working Group (“RMWG”) pursuant to its Final Policy Statement on Default Service and Retail Electric Markets adopted May 10, 2007 at Docket No. M-00072009. The purpose of the RMWG, as initially convened, was to develop policy recommendations to enhance customer choice and the development of robust and effective retail markets. Six topic areas, as set forth in a Secretarial Letter dated April 15, 2008, were identified for comment and the Energy Association of Pennsylvania (“EAPA” or “Association”)¹ addressed each of the topic areas in a filing dated June 10, 2008 at Docket No. M-00072009, including one on Customer Referral Programs.²

By e-mail dated January 5, 2010, the Commission seeks to revitalize the RMWG, stating that its first effort will be to design “a generic customer referral program through

¹ The RMWG focuses on issues dealing with electric retail choice. Members of the Association interested in this working group include Allegheny Power, Citizens’ Electric Company, Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, PPL Electric Utilities, UGI Utilities, Inc. and Wellsboro Electric Company.

² The Association’s June 2008 Position Paper is attached hereto and incorporated herein by reference.

which customers could be referred to specific EGS or a random EGS on a voluntary basis.

The referral could occur at any time there is a customer service contact by the customer.” The e-mail attached a discussion draft entitled “Proposed Guidelines for EGS Referral Program” and asked for comments by January 26, 2010.

The instant comments submitted by the Association echo the position stated in its 2008 Position Paper: namely, that no compelling reason exists in the electric marketplace to establish customer referral programs; choice has been available to electric retail customers since the late nineties; the Commission has issued regulations effective in November 1998 and found at Title 52, Chapter 57 of the Pennsylvania Code; electric distribution companies (“EDCs”) have incurred costs in implementing those regulations; and, for EDCs no longer subject to electric rate caps, shopping proliferates.³ To the extent there remains a need to develop guidelines for generic customer referral programs, the Association maintains that its adoption by an EDC should be voluntary, taking into account cost and the level of shopping achieved and sustained in an EDC franchise territory following expiration of rate caps.

The Association and its members welcome the opportunity to further discuss the proposed guidelines through this filing and in a suggested working group session dedicated to this topic and others identified by the Commission in the April 15, 2008 Secretarial Letter. The Association notes that progress has been made in a number of those topic areas and it would be beneficial to the RMWG to review the topics and set goals for further discussion and recommended action to the Commission.

³ See Pennsylvania Electric Shopping Statistics dated January 1, 2010 as released by the Office of Consumer Advocate, which includes statistics for PPL detailing active and pending shopping customers as of January 16, 2010. A copy of which is attached hereto.

II. General Comments

Consistent with its earlier 2008 Position Paper, EAPA reiterates that PUC regulations recognize the electric distribution company as a neutral party in the Choice context, charged with the responsibility of education and informing customers. The EDC is not and should not be placed in the role of marketer for suppliers. The electric generation supplier (“EGS”) should retain the responsibility and expense of marketing its services and providing accurate price information to current and potential customers. Websites developed by the Commission and Office of Consumer Advocate (“OCA”) provide a one-stop shop for customers to gather information regarding EGS availability in the service territory, contact information and current offers and options promoted by individual suppliers. Links and referrals to these websites are a cost-effective, straight-forward and successful approach to providing customers retail choice information as can be demonstrated by the current shopping statistics for those EDCs out from under the generation rate caps.

Moreover, a general customer referral program must comply with current Pennsylvania regulations which are aimed at avoiding customer confusion in the retail market, providing customers with choice and protecting against unauthorized switching or “slamming”. See Title 52 of Pa. Code, Chapter 57. Avoiding customer confusion and frustration over increases in generation rates, while promoting shopping, are crucial to the success of the market as rate caps expire. Adding additional surcharges to cover program costs, without clear benefits to customers, will neither increase shopping nor increase customer acceptance and understanding of the benefits of competition. It may, however, lead to additional complaints to EDCs, to the PUC and to the legislature. For example, those

customers who have already made a conscience decision to shop will not benefit at all from this type of program, but would see an additional surcharge on their bill.

It is axiomatic that any proposed referral program first must do no harm to customers. As a result of any program designed to increase competition, customers should not be placed in a situation that is less advantageous than what is currently provided/offered to them. If EGS programs and rate offers are viewed as confusing or are unclear to customers, then customer sentiment may hamper the PUC's goals of encouraging shopping and promoting true and fair competition.

Additionally, the current PUC policy set forth at 52 Pa.Code §69.1815 provides only that “[t]he public interest would be served by consideration of customer referral programs in which retail customers are referred to EGSs.” (Emphasis added.) Policy does not require customer referral programs throughout the Commonwealth or in every EDC service territory. As in 2008, there exists solid information why this type of program is not needed in Pennsylvania based on Pennsylvania-specific experience. While the program may have worked well in a neighboring state (New York) immediately following the introduction of retail choice into the market, the same need does not necessarily exist more than a decade following the introduction of choice into the Pennsylvania marketplace. Choice is not now a new concept to Pennsylvania energy customers and, as demonstrated in Duquesne, Penn Power and PPL's territory, when faced with rising generation prices, consumers will switch suppliers.

EAPA maintains that any initial discussion of customer referral programs should center on whether the program (its cost) and the need for amending Chapter 57 is necessary at this point in the development of Pennsylvania's retail choice market. Moreover, if the

working group consensus is that such a program may be beneficial to customers, the Association suggests that a generic program be drafted, not as a mandate, but as guidance for the EDC which voluntarily decides to implement such a program following an examination of costs and benefits to the customers in its service territory.

III. Specific Comments to the Proposed Guidelines

The Association has a number of specific concerns with the Guidelines as proposed. The expense of implementing the customer referral program as authorized is likely to result in significant increased costs for customers. The proposal establishes new technology mandates for EDCs, including the requirement to retain recordings of conversations in which customers agree to participate in the referral program and the development and maintenance of a website for information and enrollment purposes. The new website, dedicated to an EDCs customer referral program, must include the ability to randomly assign a customer to an EGS when the customer does not specifically choose a supplier. And for those customers without internet access, the EDC is required to mail a hard copy of an explanation of the program and the suppliers participating therein following the telephone call in which the customer agrees to participate in the referral program. Incremental costs and capital expenditures associated with implementing each of these new requirements are likely. Further, the EDCs will incur significant costs as wide-ranging changes would need to be made to existing CIS systems, IVR's, web-sites and back-office operations which currently comply with Chapter 57 requirements.

Discussions with customers about the referral program during various customer calls to the EDC will result in an increase of the average length of each customer care call. As a result, additional resources will be required to maintain the same quality of service currently

provided by EDC call centers. The addition of resources leads to increased capital expenses which have the potential to increase expense to the customer. Where, as here, the Pennsylvania experience demonstrates a comparable level of shopping to that of New York without customer referral programs, mandating such a practice may not be viewed as supportable public policy.

Additionally, the Association is concerned that an emphasis on short-term savings (at a 7% discount) and undisclosed, unregulated increases following the introductory period may lead to accusations of “bait and switch” and may damage the willingness of customers to move from the default supplier to an EGS even when savings are evident. This will, in turn, discourage shopping and dampen competition.

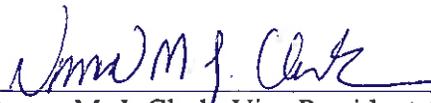
Moreover, the proposed guidelines appear to place the EDCs in the role of an arbitrator between the supplier and its customer. References to a particular EGS may expose the EDC to potential issues regarding EGS/customer service concerns and may lead to accusations of misconduct, supplier favoritism and violations of existing PUC regulations, all to the detriment of choice and competition. Currently, Chapter 57 discourages this role for the EDC and the Association maintains that the resultant level of shopping in those service areas where generation rate caps have expired underscores the success of current Commission regulation.

IV. Conclusion

For the above-described reasons, the Association recommends that the Commission abandon pursuit of the proposed customer referral program. The Association believes that such a program will be complex, costly, confusing, and, in light of recent shopping experience in Pennsylvania, unnecessary. In the alternative, if the Commission decides to pursue such a

customer referral program, the Association requests that the program be voluntary and that, most importantly, the working group meets to discuss and, if possible, agree on particular program guidelines to minimize cost and confusion.

Respectfully submitted,



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Dated: January 26, 2010

ATTACHMENT 1



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Energy Association - Member Companies' Position

Customer Referral Program Position Paper

Docket No. M-00072009

Issue: By Notice published in the Pennsylvania Bulletin on Saturday, April 26, 2008, the Pennsylvania Public Utility Commission ("Commission" or "PUC") convened the Retail Markets Working Group, under its Final Policy Statement on Default Service and Retail Electric Markets adopted May 10, 2007 at Docket No. M-00072009. The purpose of the working group is to develop policy recommendations in certain areas to enhance customer choice and the development of robust and effective retail markets.

This position paper will discuss § 69.1815, Customer Referral Program. According to the policy statement adopted on May 10, 2007, the Commission stated "The public interest would be served by consideration of customer referral programs in which retail customers are referred to EGSs."

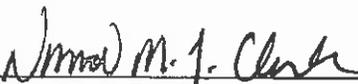
Background Information: From the beginning of Electric Choice in Pennsylvania, the roles of the electric distribution company (EDC) and electric generation supplier (EGS) were specifically defined in a variety of orders and regulations. In particular, Chapter 57 established standards for changing a customer's electric generation supplier. Chapter 57 was careful to respect the relationship between the EGS and their potential customers. Only on the authorization of the EGS was an EDC to enroll a customer – that way eliminating any confusion as to whether all signup procedures and customer notification were properly followed. This also allowed the EGS to be the one that directly dealt with the customer on price or any special offers from the EGS. To further protect changing a supplier without a valid enrollment, EDCs send a confirmation letter to the customer to make sure there is no confusion on the change of supplier. The rules were specially developed with checks and balances to protect from unauthorized switches, defining a role for the EGS and the EDC.

The role of the EDC from the early stages of Choice was defined as a neutral party that was charged with the responsibility of educating the customer about Choice and how to shop for a supplier from an educational, not a marketing perspective. The PUC Utility Choice website was established as the repository where suppliers lists were kept by EDC territory allowing customers to easily get a list of suppliers and contact information. This is a comprehensive list of EGSs that have declared an intent to serve customers in a particular EDC territory. This allows the customer to get a full view of all EGSs for their territory without any screening or favoritism. EDCs also use this supplier listing in their Choice fulfillment packages.

Position: The EDCs¹ do not believe the implementation of new a customer referral program is appropriate or warranted. The EDC can not, and should not, participate in the direct marketing of electric generation. The EDC role has been typically defined as that of a neutral party to provide unbiased, educational information to assist customers in the shopping process. Direct marketing of generation lends itself to supplier/EDC disputes, accusations of state code of conduct violations and supplier favoritism. Such programs are essentially free marketing for suppliers at the expense of customers, assuming that EDCs would be permitted to recover the program cost.

Currently in Pennsylvania, shopping statistics show that when EGS offers are available, shopping occurs. As a consequence, the Association finds no compelling reason for establishing a referral program. Furthermore, there appear to be consultants, aggregators, and other third-party entities providing referral services. The Association believes that allowing the market to find the best ways to reveal shopping opportunities will lead to a more efficient result for customers than requiring EDCs to alter their roles to provide this service.

Please see separate listing attached for the contact persons from the Association and member companies for all position papers.



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June 10, 2008

¹ Electric distribution company members supporting these comments include: Allegheny Power, Citizens' Electric Company, Duquesne Light Company, Metropolitan Edison Company A *FirstEnergy Company*, PECO Energy Company, Pennsylvania Electric Company A *FirstEnergy Company*, Pennsylvania Power Company A *FirstEnergy Company*, Pike County Light and Power Company, PPL Electric Utilities, UGI Utilities, Inc. – Electric Division and Wellsboro Electric Company.

ATTACHMENT 2

Pennsylvania Electric Shopping Statistics January 1, 2010*

PA Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048 Telephone
(800) 684-6560 (PA Consumers Toll-Free)
consumer@paoca.org ° www.oca.state.pa.us
Sonny Popowsky, Consumer Advocate

* PPL's statistics include active and pending shopping customers as of January 16, 2010.

Number of Customers Served By An Alternative Supplier

As Of 1/1/2010

	Residential	Commercial	Industrial	Total
Allegheny Power	0	1	0	1
Duquesne Light	107,621	11,472	619	119,712
MetEd/Penelec	0	1	4	5
PECO Energy	2,579	19,295	7	21,881
Penn Power	21,439	2,845	152	24,436
PPL*	205,961	40,865	847	247,673
UGI	0	26	7	33
Total	337,600	74,505	1,636	413,741

* PPL's statistics include active and pending shopping customers as of January 16, 2010.

Percentage of Customers Served By An Alternative Supplier

As Of 1/1/2010

	Residential	Commercial	Industrial	Total
Allegheny Power	0	0	0	0
Duquesne Light	20.5	19	52.7	20.4
MetEd/Penelec	0	0	1	0
PECO Energy	0.2	12.3	0.2	1.4
Penn Power	14.5	13.6	67.9	14.4
PPL*	16.9	23.3	68.6	17.7
UGI	0	0.3	3.7	0.1

Totals may differ due to rounding.

* PPL's statistics include active and pending shopping customers as of January 16, 2010.

Customers Load (MW) Served By An Alternative Supplier

As Of 1/1/2010

	Residential	Commercial	Industrial	Total
Allegheny Power	0	34.9	0	34.9
Duquesne Light	232	1,206.1	647.5	2,085.6
MetEd/Penelec	0	3.2	60.3	63.5
PECO Energy	5.4	133.7	3.8	142.9
Penn Power	22.7	65.5	65.9	154.1
PPL*	514	731	1,215	2,460
UGI	0	3.2	3.5	6.7
Total	774.1	2,177.6	1,996	4,947.7

Totals may differ due to rounding.

* PPL's statistics include active and pending shopping customers as of January 16, 2010.

**Percentage of Customers Load (MW) Served By An Alternative
Supplier As Of 1/1/2010**

	Residential	Commercial	Industrial	Total
Allegheny Power	0	1.1	0	1.1
Duquesne Light	19	56.4	89.1	51
MetEd/Penelec	0	0.2	10.9	2
PECO Energy	0.2	5.6	0.13	1.7
Penn Power	11.2	60.1	84.1	39.5
PPL*	17.3	36.4	64.1	37.8
UGI	0	5.3	16.7	3.4

Totals may differ due to rounding.

* PPL's statistics include active and pending shopping customers as of January 16, 2010.