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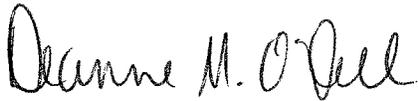
December 14, 2011

Via Electronic FilingRosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265Re: Interim Guidelines Regarding Standards For Changing a Customer's Electricity
Generation Supplier, Docket No. M-2011-2270442

Dear Secretary Chiavetta:

On behalf of the Retail Energy Supply Association ("RESA") enclosed for filing is the original of its Comments along with the electronic filing confirmation page with regard to the above-referenced matter.

Sincerely yours,



Deanne M. O'Dell, Esq.

DMO/lww
Enclosurecc: ra-ocmo@pa.gov w/enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines Regarding Standards :
For Changing a Customer's Electricity : Docket No. M-2011-2270442
Generation Supplier :

**COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

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I. INTRODUCTION

By Tentative Order entered on November 14, 2011, the Commission proposed interim guidelines intended to facilitate the timely transfer of a customer's account from an electric distribution company ("EDC") to a competitive electric generation supplier ("EGS") or from one EGS to another. In instituting this proceeding, the Commission recognized that the current process can take anywhere from 16 to 45 days to effectuate a customer's shopping decision and that these current procedures have "become an impediment to achieving an effective competitive retail electric generation market."¹ To that end, the Commission has proposed guidelines intended to shorten this timeframe and seeks comment on its proposals.

The Retail Electricity Supply Association ("RESA")² is a trade organization of EGSs who are providing thousands of consumers in Pennsylvania alternative generation service and who look forward to serving even more customers. RESA applauds the Commission's efforts to foster the development of the competitive market in Pennsylvania and has been an active participant in many of the Commission's proceedings working toward achieving this goal. Shortening the timeframe by which a customer will experience the benefit of exercising his or her decision to choose an alternative supplier is an important issue and RESA appreciates this opportunity to provide its feedback on the Commission's proposed guidelines.

¹ Tentative Order at 2.

² RESA's members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; MXenergy; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

RESA fully supports the Commission's desire to shorten the switching time in order to facilitate a more customer-oriented shopping experience. As RESA has advocated, the current switching process is grossly out of line with standards for service in other industries. Requiring all customers to wait at a minimum 16 days and as much as 45 days (or longer) to establish service with his or her chosen EGS is frustrating and confusing for customers. This is in stark contrast to other service industries, such as mobile phone service or cable television, where service can be initiated or changed in some cases instantaneously.

RESA supports the Commission's decision to eliminate the 10-day confirmation period as the first step, hopefully among many, to modify the enrollment protocols to facilitate more expeditious EGS selection. RESA understands that the Commission's proposed "switching deadline" will be a new minimum amount of time prior to a scheduled meter read date (replacing the current 16 day rule) that an EGS will have to submit an enrollment to the EGS. However, RESA is concerned that the new "switching deadline" is left undefined with no process outlined for how it will be determined. To address this, RESA recommends that a stakeholder process be convened to develop the switching deadline and to implement the necessary operational and EDI changes resulting from this modified process. The goal of the stakeholder process should be clear that the involved participants are to develop the shortest timeframe possible, from an operational standpoint, and to develop a switching deadline that would be uniformly applicable to each EDC in Pennsylvania.

RESA also recommends that this stakeholder process discuss the interplay between the three-day rescission period and the new protocols related to switching. RESA believes that EGSs should be permitted to submit the EDI 814 enrollment request to the EDC after the expiration of the rescission period. As discussed in greater detail below, RESA is concerned that

the Commission's effort to merge the rescission period with the switching deadline is not operationally feasible and will create unnecessary customer confusion. Additionally, RESA recommends that the Commission revise its proposal that EGSs be required to provide consumers their specific switching date in marketing materials, during the contracting process and in the disclosure statement. As explained below, EGSs do not know with any certainty the date a specific customer will be switched until after the EDC confirms the enrollment. At that point, the contract is already in place, the disclosure statement has been received, and the rescission period has passed. In lieu of the Commission's proposals, RESA suggests that EGSs be required to include standard language about the switching process in their marketing materials and to make the customer specific switching information available to the customer after the EGS receives it from the EDC. Customers would receive this in addition to getting their specific switching date from the EDCs consistent with the process in place today.

Finally, while RESA supports the Commission's zero tolerance policy for slamming, RESA recommends that the Commission include recognition of accidental switches and, accordingly, include provisions to enable the Commission to craft penalties appropriately tailored to remedy the accidental switch.

II. COMMENTS ON ISSUES BEYOND THE PROPOSED GUIDELINES

A. Off-Cycle Switches

Under the procedures in place today the effective date for a customer's EGS selection is dependent on the customer's meter read date. This is problematic for a number of reasons. First, as discussed in Section III.E.2, determining a specific customer's meter read cycle is difficult – and often impossible – for EGSs using the information available today. Second, as recognized

by the Commission, limiting switches to meter read dates necessarily delays the enrollment process until the customer's next meter read date.³

While RESA applauds the Commission's efforts to improve the current process, fundamental change on this issue should be a longer term goal. From RESA's perspective, off-cycle switches should be operationally feasible and permitting this would be a fundamental way to significantly improve the switching process. RESA does not believe that full smart meter deployment is necessary to allow switches to take effect on a date other than a regularly scheduled meter read date. Consumption data can be pro-rated for a particular billing period in order to effectuate an off-cycle switch. RESA acknowledges that EDC and EGS billing, meter data management, RTO/ISO settlement and other back office systems would require modification to permit such a change.⁴ Nonetheless, RESA suggests that the Commission (1) encourage market participants to develop the necessary protocols to permit off-cycle switches; and, (2) include this subject for the next phase of the Retail Markets Investigation proceeding at docket number I-2011-2237952.

B. Need For Flexibility

RESA welcomes the Commission's effort here but also recognizes that this process involves many operational and technical issues that will need to be addressed on an on-going basis. Accordingly, RESA encourages the Commission to take a flexible approach to implementing these guidelines and recognize that further refinements and tweaks may be necessary based on real world experience.

³ Tentative Order at 6.

⁴ For example, EGSs retail contracts and hedging practices currently assume that switches can only take place on a meter read date. EGS hedging practices and retail contracts may need to be modified to address off-cycle switches and an appropriate transition period would be warranted to allow for the evolution in these practices.

III. COMMENTS ON THE PROPOSED INTERIM GUIDELINES

A. Interim Guideline A. Purpose.

RESA does not any changes to this proposed guideline.

B. Interim Guideline B. Scope.

RESA recommends that the language be clarified to make clear that the requirements regarding specific language to be included in marketing materials and disclosure statements are applicable only to residential and small business customers as defined in 52 Pa. Code § 54.2. This is consistent with the Electricity Generation Customer Choice regulations of Chapter 54 as the Commission does not dictate the specific contract language to be utilized in contracting with large commercial and industrial customers nor does it impose a rescission period for large commercial and industrial customers.

C. Interim Guideline C. Definitions.

1. Customer Account Transfer Notice and Customer Notice of Account Transfer

RESA recommends adding definitions for the terms “Customer Account Transfer Notice” and “Customer Notice of Account Transfer” since those terms refer to specific items and are an integral piece of the proposed guidelines. RESA recommends the following definitions:

Customer Account Transfer Notice – a request submitted by an EGS to an EDC or DSP via an EDI transaction, currently 814, to request that a customer’s current generation supplier provider be changed.

Customer Notice of Account Transfer – written notice from the EDC or DSP to a customer that his or her generation supplier will be changed on the date provided in the notice.

The proposed definition of Customer Account Transfer Notice makes clear that the EDI transaction currently used by EGSs to notify an EDC about a change in a customer’s enrollment, the 814, is the “account transfer notice” contemplated by the guidelines. Likewise, the proposed definition of Customer Notice of Account Transfer makes clear that the “customer notice of

account transfer” refers to the written notice sent by the EDC to the customer informing the customer of the change in generation suppliers and providing the specific date on which the change will occur.

2. **Inadvertent Switch and Slamming**

RESA recommends clarifying the definition of slamming so that it refers to an intentional transfer of a customer’s electric generation service account without authorization. RESA also recommends adding a new definition for “inadvertent switch” to address accidental transfers of a customer’s account. The proposed change and new definition are as follows:

Inadvertent Switch- An accidental transfer of a customer’s electric generation service without authorization of the customer.

Slamming- The intentional transfer of a customer’s electric generation service account without the authorization of the customer.

RESA recognizes that the Commission has a zero tolerance policy for unauthorized switches and RESA agrees that unauthorized switches that occur as a result of intentional, bad faith actions should be addressed with severe penalties. However and despite best efforts, there may be instances where an EGS accidentally switches the wrong customer or switches a customer on a date earlier than provided for in the customer’s agreement. These inadvertent switches do not occur often, but, when they do, they are usually the result of technical glitches or other process errors. Examples include:

- A valid switch is contaminated with another customer’s account number due to a system error.
- A valid switch is transmitted too early to the EDC initiating a premature switch away from the customer’s current supplier or default service

EGSs should be given a fair opportunity to show that a switch was inadvertent and, as recommended below in RESA’s changes to Guideline P, the penalties for an inadvertent switch

should be reasonably tailored to address the circumstances. By clarifying the definition of slamming and adding a new definition to encompass accidental switching, the guidelines will more reasonably recognize the operational realities present in these issues and the reality that, even despite best efforts, accidents may happen.

D. Interim Guideline D. Waiver of Regulations.

RESA does not recommend any changes to this guideline.

E. Interim Guideline E. Meter Read Date; Switching Deadline.

RESA recommends a number of changes to this guideline intended to: (1) establish the switching deadline that would be applicable to all EDCs; and, (2) recognize that EGSs cannot obtain accurate, customer-specific meter read information to be included in marketing materials and/or disclosure statements.

1. The Switching Deadline Should Be Uniform and Established in the Guidelines

RESA fully supports the Commission's decision to eliminate the current 10-day confirmation period, which was created by regulation, and to replace it with a new "switching deadline" to be based on actual operational needs. Ensuring that a customer's switch can be effectuated in the shortest amount of time operationally possible is a positive way to foster the development of a competitive market because consumers will be able to receive the benefit of their shopping decision sooner.

However, the Tentative Order does not establish any specific switching deadline. Rather, it notes that "every utility has different operational conditions and system requirements" which seems to imply that the final switching deadline may vary by EDC.⁵ The Tentative Order also

⁵ Tentative Order at 11.

does not set forth any process or timeline by which the EDCs would establish the switching deadline. To address this, RESA recommends that the following steps be implemented.

The Commission should convene a stakeholder process to determine the switching deadline. The goal of the process should be to determine the shortest possible switching deadline operationally possible. RESA believes that the deadline could be as short as a day or two prior to the customer's next meter read date, assuming that the EGS builds in the mandatory three-day rescission period before transmitting an enrollment transaction to the EDC. Directing the participants work toward developing the shortest switching deadline possible is important to ensure that the goal of this proceeding – to shorten the overall switching timeframe – is effectuated. In other words, replacing the current enrollment window with a 7, 10, or 12 day switching deadline under the guise of “operational needs” would not be a reasonable outcome. RESA believes that with broad participation in a stakeholder process by both the EDCs and the EGSs who are charged with establishing the shortest switching deadline possible, the most reasonable and workable final resolution can be achieved. RESA's recommended stakeholder process also has the additional benefit of creating a cooperative and effective forum whereby operational issues could be identified and addressed to ensure that the ultimate switching deadline is operationally feasible for all involved.

Once the stakeholder process sets the switching deadline, the finally established deadline should be included in the interim guidelines so that it is widely available and known. As currently proposed, Guideline E(1) requires the EGS to get information about the switching deadline but Guideline E(2) only requires the EDC to provide that information when authorized by the Commission or directed by the Commission. RESA believes that the better approach is to

establish the deadline and state it in the guidelines so that the information is readily available and easily obtained.

Finally, RESA recommends that the switching deadline be generally applicable to all EDCs. A uniform statewide switching deadline is more easily manageable for the industry, consumers, and the Commission. This should be an achievable goal if the deadline is developed through a stakeholder process as recommended by RESA. Also, to the extent an EDC can justify an exception from the norm, then RESA's proposed change to Guideline E(1) could accommodate such situation.

Consistent with this recommendation, RESA suggests that proposed Guideline E(1) be deleted and replaced with the following (the actual date would be based on the results of the stakeholder process recommended by RESA):

1. The switching deadline shall be xxx days prior to the customer's next meter read date for all EDCs or DSPs unless, for good cause shown, an EDC or DSP is granted an exception from this time requirement.

2. **Providing The Customer His or Her Specific Switching Date**

In proposed Guideline E, the Commission directs an EGS to obtain information about the meter read cycle and the switching deadline and to: (1) advise the customer about the date that customer's account can be transferred; and, (2) include that information in marketing materials. To the extent the proposed guidelines are intended to require EGSs to provide the customer specific information about the actual date that his or her service would be switched to a competitive supplier, the proposed guidelines are not operationally feasible. This is because an EGS cannot obtain a customer's specific switching date until after it receives the enrollment response EDI transaction from the EDC. This means that the EGS must first have authorization to enroll the customer, must notify the EDC of the customer's intent to switch via an EDI enrollment transaction, and then must wait for the confirmation from the EDC. Only at that

point – after the customer’s authorization – does the EGS learn of the actual date the customer’s account can be switched.

There is no reliable, reasonable method available today for an EGS to obtain the actual date a specific customer’s account will be switched. In a separate statement issued by Commissioner Cawley, he asked about the possibility of utilizing the Eligible Customer List (“ECL”) to acquire this information. While the ECL does provide a “meter read cycle,” this offers limited useful information. The ECL identifies the meter read group applicable to the specific customer but it does not provide the specific meter read date for the customer. Rather, the EGS must cross reference the ECL information to other published data provided by the EDCs in an effort to estimate an approximate meter read date. Further, the ECL is updated quarterly and may not reflect the most current information if the customer has relocated. Also, customers may choose to opt-out of having their information disclosed on the ECL thereby making even this limited information unavailable to the EGS. Relying on the ECL alone will not provide the EGS the actual date a specific customer will be switched.

Commissioner Cawley also asked EGSs to comment on their experience with customers having ready access to their billing statement to provide the EGS with the necessary meter read information during the contracting process. In the experience of RESA members, customers cannot be relied upon to have ready access to their billing statements for a variety of reasons. Customers may be enrolled in paperless billing or may be communicating with the EGS from a location away from their primary residence where their paper bill may be located (such as work or en route). Also, EGSs may enroll customers in a variety of ways such as enrollment tables at a public location including malls or community centers, or on-line. In these situations, consumers do not have ready access to their billing statements. For these reasons, EGSs cannot

rely upon customers to have access to their billing statements to provide them with the information they need to identify the actual date the account can be switched.

EGSs only acquire a customer's specific start date after they send the 814 EDI transaction to the EDC asking that the customer's enrollment status be changed. An EGS cannot send an 814 EDI transaction request to the EDC until after it has customer authorization to take the steps necessary to effectuate a switch of the customer's account. Under present procedures, there is simply no way for the EGS to know a specific customer's switch date prior to marketing to that customers or prior to sending the 814 EDI transaction request to the EDC. Further, the marketing materials used by EGSs are designed to interest a broad group of customers whose meter read dates could be at any time of the month. As such, requiring marketing materials to include customer specific information, such as the date that specific customer can be switched to a competitive supplier, would not only be operationally impossible but prohibitively costly.

In consideration of these realities, RESA recommends the following changes to proposed Guidelines E(2) and (3):

2. ~~When authorized by the customer or directed by Commission regulation or order, a~~An EDC or DSP shall develop an EDI information field as part of the enrollment response transaction to communicate to EGSs the customer-specific meter read date when the customer's EGS selection will become effective. Upon receiving the customer-specific meter read date from the EDC or DSP, an EGS shall make this information available to the customer. Provide to an EGS upon request the next immediate meter read date and the switching deadline for a specific customer's account.

3. ~~In marketing generation service to a customer, an EGS shall~~provide the following language in its materials: "Your service with [name of new supplier] will begin within one to two billing cycles. After your enrollment has been processed you will receive notice from your electric distribution company about the date your service will begin." ~~Information about the customer's meter read date, the switching deadline and the estimated date that the customer's account will be transferred to the EGS so that the customer will understand the switching process.~~

The recommended revisions for E(2) incorporate the current process whereby an EDC communicates, through EDI, the date a specific customer's switch will be effective and, consistent with the Commission's initial proposal, directs EGSs to make this information available to the customer. RESA recommends that EGSs be given flexibility as to how such information will be made available to the customer and envisions that there are numerous ways this could be done including orally, electronically, or as part of the EGS's welcome packet. Also worth noting is that customers today receive their specific switching date in the enrollment letter sent by the EDC. To ensure that customers continue to receive this information as the Commission moves forward in changing this process, RESA also recommends that Guideline L(2) be revised to incorporate the current process whereby the EDC continues to provide this information to the customer in the account transfer notice letter it sends to the customer.

The recommended revisions to Guideline E(3) propose to standardize the information that EGSs would provide in their marketing materials. Customer confusion about the switching process should be ameliorated by requiring all EGSs to include the same language in their marketing materials.

**F. Interim Guideline F. EGS Notification to EDC of Customer Account Transfer Notice;
Interim Guideline M. EGS Rescission of Account Transfer; and,
Interim Guideline N. EDC Rescission of the Account Transfer.**

Proposed Guideline F appears to require EGSs to submit enrollment requests to the EDC during the time period set aside for the rescission period and Guidelines M and N attempt to create a process whereby the EGS or the EDC can "rescind" the contract. In its Tentative Order, the Commission references the "practice of batching enrollments" by EGSs before sending them to the EDC and expressed concern when such action is not done for legitimate reasons and

unnecessarily delays an account transfer in contravention of the customer's desires.⁶ RESA's recommended changes to proposed Guideline F are intended to address this concern by requiring the EGS to "timely" send the account transfer notice and to do so within the next business day after the expiration of the rescission period.

However, RESA does not support the Commission's proposed approach to require the EGS to submit the enrollment transaction prior to the end of the rescission period because it threatens to complicate the process by placing the EDC in the position of rescinding an EGS contract and requires the implementation of new EDI processes. Once the EGS sends the 814 EDI enrollment transaction to the EDC, it loses the ability to quickly and effectively deal with any customer request to rescind the contract within the appropriate rescission period. Instead, proposed Guidelines M and N would come into play in an effort to determine which entity is going to rescind the contract. These guidelines also propose that an EGS should be required to reimburse the EDC for costs related to the rescission of the contract. The costs are unknown and unspecified and would be unnecessary if the Commission adopts RESA's proposal to permit EGSs to submit the EDI 814 enrollment transaction after the expiration of the rescission period.

From an operational standpoint, there is currently no existing EDI process in Pennsylvania to enable an EDC to rescind or cancel a contract as proposed by the guidelines. Thus, new protocols would have to be developed. RESA supports opening a process to develop these new protocols for longer-term implementation and, once they are developed, reconsidering this issue. For the present time, however, RESA believes that permitting EGSs to hold enrollments until expiration of the rescission period while remaining focused on ensuring that the switching deadline is as minimal as possible is the most effective way to achieve the results

⁶ Tentative Order at 7.

intended in this interim process. In an effort to permit flexibility, RESA's recommended Guideline F(2) does recognize that EGSs may choose to submit enrollments prior to the end of the rescission period but makes clear that the EGS will hold the customer economically harmless if the customer elects to rescind the contract within the rescission period but service has already been initiated with the EGS. RESA believes this solution is a good interim balance for the present but looks forward to further refining this in the future.

The proposed guidelines would also be confusing from the customer's viewpoint. Guideline N contemplates that the customer will contact the EDC to rescind the contract, yet the customer just entered into the contract with the EGS and was told that he or she could rescind the contract during the rescission period with the EGS. Moreover, during the rescission period, the customer would also receive communication from the EDC telling him or her that service will be transferred on a date certain even though the customer still has an absolute right to rescind the contract. RESA believes that the proposed guidelines to merge these two timelines will create more customer confusion.

Finally, proposed Guideline N(3) unreasonably attempts to equate a customer's exercising of his or her right to rescind with a slamming allegation. A customer, who has knowingly and intentionally, entered into a contract has an absolute right to rescind that contract for any reason during the rescission period. Proposing to make a customer's exercise of this right a dispute involving a slamming allegation is unwarranted, unreasonable and will impose unnecessary burdens on the stakeholders as well as the Commission.

For all these reasons, RESA recommends that Guideline F be revised as follows and that

Guidelines M and N be deleted:

1. An EGS shall submit an account transfer notice to an EDC or DSP before the switching deadline. The account transfer notice shall be timely sent to ensure that the customer's account is transferred to the EGS at the customer's next immediate meter read date.

2. An EGS shall submit an account transfer notice within one business day upon expiration of the rescission period. If an EGS submits the enrollment transaction prior to the expiration of the rescission period, then the EGS agrees to hold the customer economically harmless if the customer elects to rescind the contract within the rescission period but service has already been initiated with the EGS.

~~2. 3.~~ An EGS may not delay the submission of an account transfer notice for reasons not legitimately related to the switching process unless when the customer has agreed that the EGS would not begin to provide service until after the customer's next immediate meter read date.

~~3.4.~~ The requirement in 52 Pa. Code § 57.173(1) (relating to customer contacts with EGSs) that an EGS notify an EDC of a customer account transfer by the end of the next business day is waived to the extent it is inconsistent with this provision. *See* Guideline D (1) (a)(relating to waiver of regulation).

G. Interim Guideline G. Customer Receipt of Written Disclosure Statement; Start of 3 Day Contract Rescission Period.

The rescission period can lengthen the amount of time needed to effectuate a switch of a customer's generation supplier. The rescission period gives a customer who has chosen to enter into a contract with an EGS the right, for any reason, to subsequently change his or her mind and rescind the contract. The customer must be given three business days following receipt of the disclosure statement to exercise this right.⁷ The amount of time that must be factored into the switching process to accommodate this rescission period varies depending on when the process is started, how the disclosure statement is provided to the customer and how many weekends and

⁷ 52 Pa. Code § 54.5(d).

holidays are included in the time period. The below example shows how the three day period can easily translate into a nine-day waiting period.

TOTAL NUMBER OF DAYS	DAY OF WEEK	EVENT
Day 1	Monday	Customer authorizes EGS to switch account via telephone
Day 2	Tuesday	EGS mails customer a copy of the disclosure statement
Day 3	Wednesday	Disclosure statement in transit
Day 4	Thursday	
Day 5	Friday	Customer presumed to receive disclosure statement, Day 1 of the 3-day rescission period
Day 6	Saturday	Weekends cannot be counted toward the rescission period
Day 7	Sunday	
Day 8	Monday	Day 2 of the 3-day rescission period
Day 9	Tuesday	Day 3 (final) of the 3-day rescission period

While the Commission’s proposed Guideline G makes clear when the customer is deemed to have “received” a disclosure statement that is mailed through the United States Postal Service, RESA recommends the addition of two more paragraphs to this section to recognize the various ways that a customer may “receive” a written disclosure statement. Proposed new paragraph 4 deals with on-line enrollment and proposed new paragraph 5 deals with email disclosure. Adding these two paragraphs to recognize the more “timely” ways a customer can receive his or her disclosure notice will further the goals of the Commission in this proceeding. The revisions are also consistent with proposed Guideline L(1) which recognizes that the EDC may use alternate methods of communicating with the customer beyond postal mailings. The two additional paragraphs RESA recommends adding here are the following:

4. There shall be a rebuttal presumption that a customer who enrolls on-line and is presented with the disclosure statement as part of the enrollment process has received the disclosure statement when the customer affirmatively acknowledges the terms of the disclosure statement.

5. There shall be a rebuttal presumption that a customer who agrees to receive a disclosure statement by electronic mail receives the disclosure statement on the day it is sent to the customer-provided email address.

H. Interim Guideline H. Disclosure Statement.

To the extent proposed Guideline H requires an EGS to include the actual starting date of service, RESA recommend that it be removed. As explained above regarding proposed Guideline E, EGSs cannot obtain accurate, customer-specific meter read information prior to receiving the enrollment confirmation from the EDC and, therefore, requiring this information to be a part of the disclosure statement is operationally impossible and costly. In addition, many EGSs make their disclosure statement available on the internet so that any prospective customer may review it. Thus, adding customer specific information would not be feasible.

In addition, an important purpose of the disclosure statement is to begin the clock for the rescission period. For this reason, requirements that will delay the ability of the EGS to prepare and send the disclosure statement to the customer who has chosen to switch should be avoided. Rather, as recommended by RESA, the disclosure statement should be deemed “received” as soon as possible to start the clock for the customer’s rescission period and then, once expired, the EDI 814 enrollment transaction notice should be sent to the EDC so that the switch can occur as soon as operationally possible. Pursuant to RESA’s proposed revision to Guidelines E(2), upon receiving the customer-specific meter read date from the EDC, an EGS will make this information available to the customer. The customer would also be notified of the actual start date by the EDC in the Customer Notice of Account Transfer. Thus, RESA recommends that proposed Guideline H(2) be revised as follows:

2. Consistent with 52 Pa. Code § 54.5 (c)(4)(i), the disclosure statement shall include information about the length of the agreement and the language set forth in Guideline E(3), ~~including the starting date for the~~

~~service with the EGS. The EGS shall include a good faith estimate of the starting date of service for the customer's service based on the customer's next immediate meter read date and the switching deadline for that date.~~

RESA also recommends the deletion of proposed Guideline H(3) as beyond the scope of these guidelines and unnecessary. These guidelines deal with the switching time frame and how the disclosure statement should address that specific issue. Proposed Guideline H(3) appears to refer to any type of complaint case and any language in the disclosure which could be viewed as unclear or ambiguous regardless of how it relates to the purpose of these guidelines. Additionally, the interpretation of a disclosure statement and how it impacts the facts of a complaint case are within the discretion of the trier of fact during the evidentiary hearing and this proposed guideline does not provide any useful guidance on this issue. For these reasons, RESA recommends that proposed Guideline H(3) be deleted.

I. Interim Guideline I. Evidence of a Customer's Authorization to Transfer Account.

RESA recommends that proposed Guideline I be updated to recognize the various methods by which a customer can authorize a switch including a signed authorization form, an oral authorization that is recorded and/or electronic authorization. Consistent with RESA's recommendations for Guideline G, recognizing these more "timely" ways a customer can authorize a contract with a competitive supplier furthers the goals of the Commission in this proceeding to accelerate the switching process.

RESA recommends the addition of the following new paragraph number 2:

2. Valid authorization includes a signed authorization form, a oral authorization that is recorded, or electronic authorization from the customer of record. This guideline is consistent with 52 Pa. Code § 57.173 (relating to customer contacts with EGSs).

J. Interim Guideline J. Records.

RESA does not recommend any proposed changes to this proposed guideline.

K. Interim Guideline K. EDC Transfer of Customer Account.

RESA recommends the following clarification to proposed Guideline K(1) to ensure coordination between the enrollment switch date and the actual transfer.

1. An EDC or DSP shall transfer the customer's account to the selected EGS at the beginning of the first feasible billing period following the submission of an account transfer notice from the EGS and consistent with the meter read date provided by the EDC or DSP to the EGS upon receipt of the notice. This guideline is consistent with 52 Pa. Code § 57.174 (relating to time frame requirement).

L. Interim Guideline L. Customer Notice of Account Transfer.

RESA recommends that proposed Guideline L(2) include the requirement that the EDC include in the customer notice of account transfer the date service with the new supplier will begin. This is consistent with current practice as set forth in 52 Pa. Code § 57.173. The change recommended by RESA is as follows:

2. The customer notice of account transfer shall include the date service with the new EGS will begin. An EDC or DSP may use the sample set forth in Appendix B as a guide for drafting the account transfer notice.

Appendix B of the Tentative Order proposed content for the EDC Account Transfer Letter. RESA suggests a few changes to the proposed letter intended to ensure that it presents the customer's choice in a positive way. RESA's recommended changes are attached hereto as Attachment B.

M. Interim Guideline O. Customer Disputes; Slamming Complaints.

RESA does not recommend any changes to this proposed guideline.

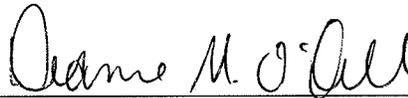
N. Interim Guideline P. Penalties for Unauthorized Transfer of Customer Accounts.

RESA recommends that this proposed guideline be revised to recognize the possibility of inadvertent switches and to permit the Commission to assess reasonably tailored penalties in such instances. As explained above regarding proposed Guideline C, there may be instances where an EGS accidentally switches the wrong customer or switches a customer on a date earlier than provided for in the customer's agreement. In consideration of this, the guidelines should permit flexibility to the Commission to tailor an appropriate penalty based on the circumstances.

IV. CONCLUSION

RESA appreciates this opportunity to provide its viewpoint regarding this important proceeding and looks forward to continuing to assist the Commission with this very important process.

Respectfully submitted,



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Attachment A: RESA's Suggested Changes To Proposed Interim Guidelines

INTERIM GUIDELINES FOR THE TRANSFER OF CUSTOMER ACCOUNTS

A. Purpose.

These guidelines establish procedures to ensure the timely transfer of a customer account for electric generation service while protecting customers against slamming, the transfer of a customer's account without authorization. These guidelines are applicable to electric generation suppliers, electric distribution companies and default service providers and to the employees, agents and representatives that they employ.

B. Scope.

These guidelines apply to customer-authorized transfers of service accounts from an EDC or DSP to an EGS and between EGSs. When the customer's service is discontinued by the EGS, the transfer of a customer from an EGS to default service provided by an EDC or DSP is governed by 52 Pa. Code § 54.123 (relating to transfer of customers to default service). Guideline E(3) (Meter Read Date; Switching Deadline), G (Customer Receipt of Written Disclosure Statement; Start of 3 Day Contract Rescission Period), and H (Disclosure Statement), apply only to residential and small business customers, as defined in § 54.2.

C. Definitions.

The following words and terms, when used in these guidelines, have the following meanings, unless the context clearly indicates otherwise:

Customer - A purchaser of electric generation in whose name a service account exists with either an EDC or an EGS. In addition, the term includes all persons authorized to act on a customer's behalf.

Customer Account Transfer Notice – a request submitted by an EGS to an EDC or DSP via an EDI transaction, currently 814, to request that a customer's current generation supplier provider be changed.

Customer Notice of Account Transfer – written notice from the EDC or DSP to a customer that his or her generation supplier will be changed on the date provided in the notice.

Default Service Provider - DSP -The incumbent EDC within a certificated service territory or a Commission approved alternative supplier of electric generation service.

Electronic Data Interchange - EDI- Communication protocols established for the transmission and receipt of data by electronic means.

Electric Distribution Company - EDC – An electric distribution company as defined in 66 Pa.C.S. § 2803 (relating to definitions).

Electric Generation Supplier - EGS – An electric generation supplier as defined in 66 Pa.C.S. § 2803 (relating to definitions).

Inadvertent Switch- An accidental transfer of a customer’s electric generation service without authorization of the customer.

Slamming- The intentional transfer of a customer’s electric generation service account without the authorization of the customer.

Switching deadline- The date by which an EDC or DSP must receive a customer account transfer notice from an EGS so that the customer’s account can be transferred to the EGS at the customer’s next immediate meter read. ~~The switching deadline is established in the EDC’s or DSP’s tariff based in part on its operational requirements.~~

D. Waiver of Regulations.

1. The following provisions of 52 Pa. Code § 57.173 (relating to customer contacts with EGS) are proposed to be waived to the extent necessary to implement these interim guidelines:
 - (a) Subsection (1) - the requirement that an EGS notify an EDC that a customer selected the EGS as a new supplier by the end of the next immediate business day.
 - (b) Subsection (2) – the requirement that an EDC or DSP send a confirmation letter to the customer to confirm the customer’s consent to transfer his or her account to an EGS.
 - (c) Subsection (2) - the establishment of a 10 day period wherein a customer can contact the EDC to dispute that consent was given for the transfer of his or her service account to an EGS.
2. The provision of 52 Pa. Code § 57.174 (relating to time frame requirement) that requires the EDC to make the change at the beginning of the first feasible billing period following the 10-day waiting period is waived to the extent necessary to implement these interim guidelines.
3. The waivers shall remain in effect pending revision of this regulation.

E. Meter Read Date; Switching Deadline.

- ~~1. An EGS should obtain information about a customer's meter read cycle and the switching deadline so that the EGS is able to advise a customer about the date that the customer's account can be transferred to the EGS.~~
1. The switching deadline shall be xxx days prior to the customer's next meter read date for all EDCs or DSPs unless, for good cause shown, an EDC or DSP is granted an exception from this time requirement.
2. ~~When authorized by the customer or directed by Commission regulation or order, a~~An EDC or DSP shall develop an EDI information field as part of the enrollment response transaction to communicate to EGSs the customer-specific meter read date when the customer's EGS selection will become effective. Upon receiving the customer-specific meter read date from the EDC or DSP, an EGS shall make this information available to the customer. provide to an EGS upon request the next immediate meter read date and the switching deadline for a specific customer's account.
3. In marketing generation service to a customer, an EGS shall~~ould~~ provide the following language in its materials: "Your service with [name of new supplier] will begin within one to two billing cycles. After your enrollment has been processed you will receive notice from your electric distribution company about the date your service will begin." ~~information about the customer's meter read date, the switching deadline and the estimated date that the customer's account will be transferred to the EGS so that the customer will understand the switching process.~~

F. EGS Notification to EDC of Customer Account Transfer Notice.

1. An EGS shall submit an account transfer notice to an EDC or DSP before the switching deadline. The account transfer notice shall be timely sent to ensure that the customer's account is transferred to the EGS at the customer's next immediate meter read date.
2. An EGS shall submit an account transfer notice within one business day upon expiration of the rescission period. If an EGS submits the enrollment transaction prior to the expiration of the rescission period, then the EGS agrees to hold the customer economically harmless if the customer elects to rescind the contract within the rescission period but service has already been initiated with the EGS.
3. An EGS may not delay the submission of an account transfer notice for reasons not legitimately related to the switching process unless ~~when~~ the customer has agreed that the EGS would not begin to provide service until after the customer's next immediate meter read date.
4. The requirement in 52 Pa. Code § 57.173(1) (relating to customer contacts with EGSs) that an EGS notify an EDC of a customer account transfer by the end of the next business day is waived to the extent it is inconsistent with this provision. *See* Guideline D (1) (a)(relating to waiver of regulation).

G. Customer Receipt of Written Disclosure Statement; Start of 3 Day Contract Rescission Period.

1. The 3 day contract rescission period begins when the customer receives a written disclosure statement that conforms in content with 52 Pa. Code § 54.5 (c) and applicable provisions of these interim guidelines.
2. The length of the 3 day contract rescission period shall be 3 business days. This guideline is consistent with 52 Pa. Code § 54.5(d)(1) and (2)(relating to disclosure statement for residential and small business customers).
3. There shall be a rebuttable presumption that a disclosure statement correctly addressed to a customer with sufficient first class postage attached shall be received by the customer 3 days after it has been properly deposited in the United States mail.
4. There shall be a rebuttal presumption that a customer who enrolls on-line and is presented with the disclosure statement as part of the enrollment process has received the disclosure statement when the customer affirmatively acknowledges the terms of the disclosure statement.
5. There shall be a rebuttal presumption that a customer who agrees to receive a disclosure statement by electronic mail receives the disclosure statement on the day it is sent to the customer-provided email address.

H. Disclosure Statement.

1. The EGS shall include in its disclosure statement the information listed at 52 Pa. Code § 54.5(c)(relating to disclosure statement for residential and small business customers).
2. Consistent with 52 Pa. Code § 54.5 (c)(4)(i), the disclosure statement shall include information about the length of the agreement and the language set forth in Guideline E(3). ~~including the starting date for the service with the EGS. The EGS shall include a good faith estimate of the starting date of service for the customer's service based on the customer's next immediate meter read date and the switching deadline for that date.~~
3. ~~When a disclosure statement is at issue in a complaint proceeding, and the disclosure statement contains unclear or ambiguous language that is relevant to the complaint, the Commission will interpret the language against the EGS.~~

I. Evidence of a Customer's Authorization to Transfer Account.

1. A document signed by the customer of record whose sole purpose is to obtain customer consent to change EGSs shall constitute valid written evidence that the customer authorized an EGS to transfer the customer's service account. This guideline is consistent with 52 Pa. Code § 57.176 (relating to valid written authorization).
2. Valid authorization includes a signed authorization form, a oral authorization that is recorded, or electronic authorization from the customer of record. This guideline is consistent with 52 Pa. Code § 57.173 (relating to customer contacts with EGSs).
3. The submission of an account transfer notice to an EDC or DSP by an EGS shall be evidence of a customer's authorization to transfer his or her account to the EGS. This evidence shall satisfy the statutory requirement that the EDC or DSP change a customer's electricity supplier upon receipt of written evidence that the customer has consented to the transfer. *See* 66 Pa.C.S. § 2807(d)(1)(relating to consumer protections and customer service).
4. Neither the account transfer notice provided by the EGS to the EDC or DSP, nor the transfer of a customer account to an EGS by an EDC or DSP may be used as evidence to prove that the customer authorized the EGS to transfer the account in a Commission proceeding on a customer complaint.
5. This guideline does not release an EDC, a DSP or an EGS from the obligation of investigating a customer's allegation involving the unauthorized transfer of a customer account. *See* Guideline O (relating to customer disputes; slamming complaints).

J. Records.

1. Documents, and other paper or electronic records relating to a customer's authorization to transfer his or her service account to an EGS or DSP shall be retained for a period of time equivalent to at least 6 billing cycles. This requirement is consistent with 52 Pa. Code § 57.177 (relating to customer dispute procedures).
2. When a customer files a dispute or a complaint, documents, and other paper or electronic records relating to a customer's authorization to transfer his or her service account to an EGS or DSP shall be retained for 3 years from the date of the dispute or complaint. *See* 52 Pa. Code § 57.179 (relating to record maintenance).
3. This guideline applies to all EDCs, DSPs and EGSs.

K. EDC Transfer of Customer Account.

1. An EDC or DSP shall transfer the customer's account to the selected EGS at the beginning of the first feasible billing period following the submission of an account transfer notice from the EGS and consistent with the meter read date provided by the EDC or DSP to the EGS upon receipt of the notice. This guideline is consistent with 52 Pa. Code § 57.174 (relating to time frame requirement).
2. An account transfer notice submitted by the switching deadline should be processed by the EDC or DSP so that the customer's account is transferred to the selected EGS by the customer's next immediate meter read date.
3. The 10-day waiting period established at 52 Pa. Code § 57.173 (2) (relating to customer contacts with EGSs) and referenced in 52 Pa. Code § 57.174 (relating to time frame requirement) is waived to the extent that they are inconsistent with this guideline. *See* Guideline D (1)(c) and (2) (relating to waiver of regulation).

L. Customer Notice of Account Transfer.

1. An EDC or DSP shall provide notice to the customer of the transfer of an account to an EGS or a default service provider. An EDC or DSP shall send an account transfer letter to the customer by the end of the next business day after receiving the transfer notice from an EGS. For a customer who is enrolled in paperless billing, or who has agreed to receive electronic notices, letters and other communications from the EDC or DSP, an account transfer letter may be sent electronically.
2. The customer notice of account transfer shall include the date service with the new EGS will begin. An EDC or DSP may use the sample set forth in Appendix B as a guide for drafting the account transfer notice.
3. The requirement that an EDC send a confirmation letter to a customer established at 52 Pa. Code § 57.173 (2) (relating to customer contacts with EGSs) is waived to the extent it is inconsistent with this provision. *See* Guideline D (1)(b) (relating to waiver of regulation).

~~M. EGS Rescission of Account Transfer.~~

- ~~1. An EGS may rescind the transfer of the customer's account no later than 3 business days prior to the switching deadline established by the EDC or DSP for the customer's account. Only an EDC or DSP may rescind the transfer of a customer account after that time.~~
- ~~2. An EGS may use an established EDI transaction to rescind the account transfer.~~
- ~~3. The EGS should reimburse an EDC or DSP for reasonable costs related directly to the rescission of a customer account transfer by the EDC or DSP.~~
- ~~4. An EGS may not rescind the transfer of a customer's account to another EGS without written evidence of the customer's authorization to rescind the transfer.~~

~~N. EDC Rescission of the Account Transfer.~~

- ~~1. An EDC or DSP may rescind the transfer of a customer's account upon the request of an EGS. The rescission of the transfer of the customer's account shall comply with applicable statutes, regulations and Commission guidelines and orders.~~
- ~~2. The EGS should reimburse an EDC or DSP for reasonable costs related directly to the rescission of a customer account transfer by the EDC or DSP.~~
- ~~3. When a customer contacts an EDC or DSP to request that the EDC rescind the transfer of his or her account to an EGS, the EDC or DSP shall treat the contact as a dispute involving a slamming allegation in accordance with Guideline O (relating to customer disputes; slamming complaints).~~

O. Customer Disputes; Slamming Complaints.

Consistent with 52 Pa. Code § 57.177 (relating to customer dispute procedures), all EDCs, DSPs and EGSs shall treat all slamming allegations as disputes in accordance with Commission regulations at 52 Pa. Code § 56.151 (relating to general rule) and § 56.152 (relating to contents of the utility company report).

P. Penalties for Unauthorized Transfer of Customer Accounts.

1. An EDC, DSP or EGS shall not change a customer's electricity supplier without evidence of the customer's consent to the change in supplier. *See* 66 Pa.C.S. § 2807(d)(1) (relating to customer protection and customer service). *See also* Guideline I (relating to evidence of a customer's authorization to transfer account) and Guideline M (relating to EGS rescission of account transfer).
2. The Commission has a zero tolerance policy for slamming, and consistent with due process, will impose fines and other penalties as is deemed necessary.

The unauthorized transfer of a customer account without a customer's express consent will result in a fine or other penalties for an EDC or DSP.

- (d) The unauthorized transfer of a customer account without the customer's express consent can result in a fine, or other penalties, including the suspension, or the revocation of the license of that EGS. *See* 52 Pa. Code § 54.42(9) (relating to license suspension; license revocation).
3. If the Commission finds that an inadvertent switch occurred, then the Commission may (a) require the EGS to hold the customer monetarily harmless from the effects of the erroneous switch and/or (b) require the EGS to compensate the customer for any lost savings.

Attachment B: RESA's Suggested Changes To Proposed EDC Account Transfer Letter

mm/dd/yy

[CUSTOMER NAME]
[MAILING ADDRESS]

Customer/Account No: [XXXXXXXXXX]

For Service To:
[SERVICE ADDRESS]

RE: IMPORTANT NOTICE ABOUT YOUR ACCOUNT

Dear [CUSTOMER]:

Congratulations on your decision to shop for an alternative electricity supplier! We received notice that [EGS] will be your electric supplier of choice and their contact information is listed below:

[EGS NAME]
[EGS CONTACT INFORMATION to include EGS Telephone Number]

Our records also indicate that you will receive [X] bill from [EDC] which will reflect [EDC] charges and those of your electricity supplier.

[EGS] will begin providing you with energy when your meter is read on or about [XX/XX/XXXX]. You will receive your first bill showing this supplier's charges the following month.

If this information is correct, you do not need to call anyone.

If you have any questions about this notice, please contact [EGS] at the contact information listed above. your new supplier. ~~The supplier's contact information may be found above or on the disclosure statement you received from your supplier.~~

If you have any other questions or concerns about your electricity service, you may contact us at 1-[XXX-XXX-XXXX] between the hours of [X] a.m. to [X] p.m. Monday through Friday.

Sincerely,

[EDC]