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**VIA FEDERAL EXPRESS**

December 14, 2011

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120

**RECEIVED**

DEC 14 2011

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

Dear Ms. Chiavetta:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") is an original and five (5) copies of PPL Electric's comments in the above-captioned proceeding. Pursuant to the order entered by the Public Utility Commission ("Commission") on November 14, 2011, PPL Electric also is submitting a copy of its comments to the Office of Competitive Market Oversight at [ra-OCMO@state.pa.us](mailto:ra-OCMO@state.pa.us).

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on December 14, 2011, which is the date it was deposited with an overnight express delivery service as shown on the delivery receipt attached to the mailing envelope.

In addition, please date and time-stamp the enclosed extra copy of this letter and return it to me in the envelope provided.

If you have any questions regarding the enclosed comments, please contact me.

Very truly yours,

  
Paul E. Russell

Enclosures

cc: Patricia Krise Burket, Esquire  
Mr. Daniel Mumford

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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**Comments of  
PPL Electric Utilities Corporation on  
Tentative Order Entered November 14, 2011**

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**RECEIVED**  
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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

**1. Introduction**

On November 14, 2011, the Pennsylvania Public Utility Commission ("PUC" or the "Commission") entered a Tentative Order proposing a set of interim guidelines intended to facilitate the timely transfer of a customer's account from an electric distribution company ("EDC") or other default service provider ("DSP") to a competitive electric generation supplier ("EGS"), or from one EGS to another EGS while preserving safeguards to prevent the unauthorized switching of a customer's account, also known as "slamming". The proposed interim guidelines and other proposals set forth in the Tentative Order were developed by the PUC's Office of Competitive Market Oversight ("OCMO") as a result of meetings held with working groups, CHARGE (Committee Handling Activities for Retail Growth in Electricity), and the Commission's Investigation into Pennsylvania's Retail Electricity Market at Docket No. I-2011-2237952. The Tentative Order provides for the receipt of

comments no later than 30 days from the date of entry (which is December 14, 2011).

PPL Electric Utilities Corporation (“PPL Electric” or “the Company”) is a “public utility” and an “EDC” as those terms are defined under the Public Utility Code, 66 Pa.C.S. §§ 102 and 2803, and is subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and default service provider electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania. As part of those duties, PPL Electric maintains customer accounts, and administers billing and energy settlement systems that perform the “switching” functions that are the subject of this order. PPL Electric has been an active supporter of Customer Choice and an active participant in all phases of the Retail Market Investigation, as well as the activities conducted by OCMO and CHARGE.

In Section 2 of the comments that follow, PPL Electric provides general comments on the issues and approaches raised by the Tentative Order. In the interest of clarity, PPL Electric has attempted to organize its specific comments under the same headings as those used in the Tentative Order. Accordingly, Section 3 of the Company’s comments addresses the interim proposals put forth in Section III (“Interim Proposals”) of the Tentative Order as well as the Interim Guidelines set forth in Appendix A and the Account Transfer Letter set forth in Appendix B. Section 4 of

the Company's comments addresses Section IV ("Long Term Proposal") of the Tentative Order.

## **2. General Comments**

PPL Electric has been and continues to be an enthusiastic proponent of retail electric competition in Pennsylvania. The Company supports the Commission's efforts, through this and other proceedings, to create a robust competitive retail market in Pennsylvania. To that end, the Company supports improvements that *fundamentally enhance the competitive model, but have reservations regarding proposals that may be cosmetic, or which may introduce distortions or unintended consequences into the market.* The Company also believes that it is essential that any changes that are to be introduced are implemented from a reasonable set of *expectations and with care so that the potential for negative impacts on the markets and, specifically, on customers is minimized.* In addition, the Company believes that the Commission must recognize that full cost recovery for any enhancements that EDCs are directed to undertake is proper ratemaking and is explicitly required by the *Public Utility Code.*

This Tentative Order seeks to shorten the timeframe required to switch a customer from one generation supplier to another. The Tentative Order states the current timeframe of 16 to 45 days is "perceived by consumers to be a lost 'savings opportunity' that in turn, results in customer frustration and disappointment and a less favorable opinion of the competitive retail market." Tentative Order at 2. To address this issue, the Tentative Order makes two proposals. The first, termed an interim proposal, is to eliminate the 10-day waiting period, which is established at 52 Pa.

Code Section 57.171 – Section 57.179 and which “is intended to give the customer time to contact the EDC to cancel the switch of a supplier in cases where the customer did not authorize the switch of supplier.” Tentative Order at 3. The second, termed a long-term proposal because it will require significant overhauls of EDC’s present meter and billing systems, is to include off-cycle switching as one of the functionalities to be provided by EDC’s smart meter systems.

**PPL Electric believes that the Commission should pursue changes to supplier switching timeframes through a formal rulemaking proceeding rather than through the issuance of guidelines or policy statements.**

To implement various proposed changes to the supplier switching timeframes, the Commission has “drafted proposed Interim Guidelines that streamline the switching process, primarily by eliminating the 10-day waiting period currently required by 52 Pa. Code § 57.173(2).” Tentative Order, p. 12 (emphasis added). Although the Commission has characterized the proposed changes as “interim guidelines,” it is clear that the Commission intends the guidelines to have general application and to be binding on all EDCs, EGSs, and customers. However, as explained below, the Tentative Order does not adopt the Interim Guidelines in accordance with the formal procedures required to establish binding norms or obligations.

The Tentative Order characterizes the proposed changes to the switching regulations as statements of policy or guidelines. However, unlike properly adopted regulations, statements of policy and guidelines do not establish binding norms or obligations.

The Commonwealth Documents Law defines a statement of policy as follows:

“Statement of Policy” means any document, except an adjudication or a regulation, promulgated by an agency which sets forth substantive or procedural personal or property rights, privileges, immunities, duties, liabilities or obligations of the public or any part thereof, and includes, without limiting the generality of the foregoing, any document interpreting or implementing any act of Assembly enforced or administered by such agency.

45 P.S. § 1102(13). A statement of policy is neither a rule nor precedent, but merely an announcement to the public of the policy which the agency hopes to implement in future rulemakings or adjudications. *Department of Environmental Resources v. Rushton Mining Company*, 591 A.2d 1168, 1173 (Pa. Cmwlth. 1991). Importantly, a policy statement does not establish a binding norm or obligation. *Id.*

Similarly, a guideline does not establish a binding norm or obligation. A guideline is defined as:

A document, other than an adjudication, interpretation or regulation, which announces the policy an agency intends to implement in future rulemakings, adjudications or which will otherwise guide the agency in the exercise of administrative discretion. The document *may not amend, repeal or suspend a published regulation* or otherwise effectively circumscribe administrative choice, but shall establish a framework within which an agency exercises administrative discretion.

1 Pa. Code § 1.4 (emphasis added).

Although the Tentative Order characterizes the proposed changes to the switching regulations as statements of policy or guidelines, it is clear that the Commission intends the guidelines to have general application and to be binding on all EDCs, EGSs, and customers. Indeed, the Tentative Order states that “[w]hen finalized, the proposed Interim Guidelines *will apply* to EGSs, EDCs and Default Service Providers (DSPs) and *will govern* the transfer of customer accounts from an EDC or DSP to an EGS and between EGSs.” Tentative Order, p. 12 (emphasis

added). Further, the Tentative Order states that the “proposed guidelines *are applicable* to EDCs, EGSs, and DSPs, and to their employees, agents and representatives.” Tentative Order, p. 14 (emphasis added). However, as explained above, statements of policy and/or guidelines do not establish binding norms or obligations but, rather, merely announce to the public the policy that the Commission hopes to implement in future rulemakings or adjudications.

To the extent that the Commission intends the Interim Guidelines to have general application and binding effect, they must be adopted pursuant to the formal rulemaking requirements for regulations. To be valid, agency regulations must conform with the Commonwealth Documents Law. *Metro Transp. Co. v. Pennsylvania Public Utility Commission*, 525 A.2d 24, 27 (Pa. Cmwlth. 1987). The Commonwealth Documents Law provides the procedures for an agency to promulgate regulations. 45 P.S. §§ 1201-1208. The Commonwealth Documents Law requires an administrative agency to, *inter alia*, provide public notice of its intention to promulgate a regulation, publish the proposed regulation in the Pennsylvania Bulletin, and solicit comments from interested parties. 45 P.S. § 1201. The Commonwealth Documents Law further requires that all administrative regulations shall be approved as to legality by the Attorney General and shall be deposited with the Legislative Reference Bureau. 45 P.S. § 1205. Additionally, the Regulatory Review Act provides for review of a proposed regulation by the Independent Regulatory Review Commission. 71 P.S. §§ 745.5, 745.51a.

For the reasons stated above, PPL Electric believes that to the extent the Commission intends the proposed Interim Guidelines to have general application and

binding effect, the Commission must adopt these changes in accordance with the *Commonwealth Documents Law and the Regulatory Review Act*.

**PPL Electric believes that the interim proposal should be revised to shorten, but not eliminate the current 10-day confirmation letter and waiting period.**

PPL Electric does not believe that the time required to switch generation suppliers is a significant factor in customers deciding not to choose an EGS, but the Company does not disagree that some customers have expressed unhappiness with what seems, to them, an excessively long time to accomplish a switch and that customers are likely losing some savings that might otherwise be available to them. The Company notes that information presented at the November 10 en banc hearing conducted as part of the Retail Markets Investigation indicates that some customers who have not selected an EGS provide as their reason that it is too much of a “hassle”:

- Information presented by Alphabuyer indicated that 16% of customers not selecting an EGS offered as their reason that the “process is confusing” or “it’s too much of a hassle”.
- Information presented by the Tarrance Group (on behalf of Direct Energy) reported focus group participants as concerned about whether switching to a competitive retailer is “worth the hassle”.

Although not specifically defined in either study, it is likely that the time involved to switch is among the elements that contribute to customers’ perception that switching is a “hassle”.

As described below (in 3A), PPL Electric believes that the Tentative Order's interim proposal to eliminate the 10-day waiting period would have the effect of reducing the current requirement that enrollments be received by the EDC at least 16 days prior to the meter read when they are to take effect (the so-called "16-day window") to 9 days<sup>1</sup>. This means that a customer who calls in during the 7-day period between the old cut-off and the new cut-off would now have his/her switch take effect one month earlier than it would take effect under current rules. Customers who would enroll 16 or more days prior to their meter read date and those who would enroll 7 or fewer days prior to their meter read date would see no benefit from this proposal. Assuming 30-day months and an equal likelihood of a customer enrolling on any day of the month, the Company estimates that, under the existing rules, a customer has a 47% likelihood (14 days/30 days) of having his/her switch become effective at his/her next meter read and a 53% likelihood (16 days/30days) that it will take effect the following month. Under the interim proposal the likelihood of the switch becoming effective at the next meter read increases to 70% (21 days/30 days) and the likelihood that it will take effect the following month is reduced to 30% (9 days/30 days). In terms of lost savings, if a residential customer can realistically expect to achieve a \$5 per month saving, then his/her expected saving in the next month increases from \$2.35 (\$5 times a 47% probability that it will be realized) to

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<sup>1</sup> The Company describes in Section 3 that it believes that, given current PJM rules and procedures and the sequencing and timing of Company billing processes, that it is possible, with no confirmation letter or waiting period, to process an enrollment received by 1:00 PM EPT on the 8<sup>th</sup> day prior to the meter read date for supply to begin with the next immediate bill period in all normal circumstances (i.e., where there is no meter reading or billing problem) including the long Thanksgiving holiday weekend. The Company uses "9 days" here in an effort to be consistent with the "16-day rule", however, that rule was established over a decade ago and has not been revised to reflect changes at PJM or the Company's capability to read meters remotely and automatically. These "unincorporated" changes are the reasons why the elimination of what was a 10-day critical path activity only results in a 7-day saving.

\$3.50 (\$5 times a 70% probability that it will be realized). PPL Electric currently has almost half a million residential customers who are shoppers. If it is assumed that each one would switch once per year to either find a lower rate or avoid an increase, then the expected benefit to that population of customers as a result of shortening the blackout window from 16 days to 9 days would be about \$575,000 per year (the difference in expected savings per customer times 500,000 customers). This number could be greater if the switching population is larger or if non-residential customers are included. The number could be smaller if customers are switching for reasons other than savings (such as price certainty). The actual benefit, however, would only be experienced by the 23% of shopping customers who would seek enrollment during the 7-day period that would otherwise be part of the blackout, and who would now begin their EGS supply in the next month rather than in the month following the next month.

In order to achieve the shortening of the blackout window, the Tentative Order proposes to eliminate the 10-day waiting period that is established to give the customer time to contact the EDC to cancel the switch of supplier in cases where the customer did not authorize the switch of supplier. This proposal would expose all switching customers, not just those who receive the benefit of an accelerated switch, to the consequences of such unauthorized switches that might otherwise be avoided. It is difficult to estimate an economic impact. An element of the proposed interim guidelines appears to be to assure that customers are compensated by EGSs, who cause an unauthorized switch for any lost savings. However, the simple fact is that the letter and waiting period do result in some unauthorized switches being avoided

and the fact that more unauthorized switches will occur will result in additional dispute resolution and billing costs for both EDCs and EGSs. Those that are incurred by EDCs (billing corrections, customer service representative time, etc.) should be recovered from customers through base rates.

*Perhaps more important than the economic consequence, however, is the loss of consumer confidence that may result from an increase in disputes and billing corrections. Consumer survey information presented at the November 10 en banc hearing conducted as part of the Retail Market Investigation indicates that a significant contributor to customers' reluctance to select an EGS is rooted in lack of consumer confidence:*

- Information presented by Alphabuyer indicated that 15% of customers not selecting an EGS offered as their reason that "It's too risky" or "It's a scam".
- Information presented by the Tarrance Group (on behalf of Direct Energy) reported focus group participants as concerned about whether consumers can trust a new company.

PPL Electric believes that, because the consequences associated with this proposal can impact all customers while the benefit would only be experienced by a few, a better balance can be struck if the Commission were to revise this interim proposal to shorten, but not eliminate, the 10-day confirmation letter and waiting period. PPL Electric is not able, at this time, to definitively recommend an appropriate shortening of the letter. However, early in the conduct of the second phase of the Retail Markets Investigation, the Office of Consumer Advocate (OCA) suggested a 5-day confirmation letter and waiting period to replace the current 10-

day letter and waiting period. PPL Electric believes that proposal would be a good starting point for a working group to develop activity timelines to determine whether such an approach would provide an appropriate acceleration while maintaining at least some protection against unauthorized switches.

**PPL Electric concurs that off-cycle switching functionality should be incorporated into EDCs' smart meter plans under Act 129 of 2008. The Company believes that coupling a shortened confirmation letter and waiting period with the ability for customers to switch generation supplier on a date other than the meter read date is a better long-term approach in that it provides an appropriate combination of consumer protection and timely achievement of benefits.**

The Tentative Order states, at page 6, "The implementation of smart meter technology may offer the answer as mid-cycle reads, short-period bills, etc. become possible." Accordingly, on page 25, the Tentative Order states, "(W)e propose that supplier switching be fully integrated into all smart meter deployment plans." PPL Electric concurs. In Section 4 of these comments, the Company describes specific details the Commission may wish to consider in this regard. In summary, however, PPL Electric believes that the ability to switch customers' generation supplier on dates other than the scheduled monthly meter read date (the Company prefers the term "off-cycle switch" to the term "mid-cycle switch" as the latter term still connotes a specific inflexible date) is a functionality that would provide accelerated switching benefits to all customers except for the 1/30<sup>th</sup> of the switching population who would call on the last day prior to the switching black-out. For example, a customer who seeks enrollment 15 days prior to his/her monthly meter read would not, under current rules, be able to receive service until after the next subsequent monthly meter read. In the current process, the customer would lose access to savings for 45 days.

If off-cycle switches were possible, that customer could be switched as the result of a reading taken the day after the monthly read. The customer would then gain 29 days of savings. Similarly, a customer who seeks enrollment 14 days prior to his/her monthly meter read would gain 28 days of savings, a customer who seeks enrollment 13 days prior to his/her monthly meter read would gain 27 days of savings, a customer who seeks enrollment 12 days prior to his/her monthly meter read would gain 26 days of savings, and so on. In aggregate, and, again, assuming 30 day months, random enrollments once per year by each of the 500,000 shopping customers, and \$5.00 per month in savings that would be at risk if switching were delayed, implementing off-cycle switching capability while retaining existing slamming protections would result in additional savings of \$1,250,000 per year<sup>2</sup> – more than 2 times greater than the benefit estimated, above, to be available through implementation of the interim guidelines (\$575,000) and without sacrificing slamming protections. This estimated benefit could be expanded further by combining the functionality to perform off-cycle switches with a shortening of the waiting period associated with the confirmation letter. Because the Company believes that this is the proper end state; i.e., the possibility of off-cycle switches coupled with a shortened confirmation letter and waiting period, the Company believes that, as stated above, the better interim approach is to retain the confirmation letter with a shortened waiting period rather than to eliminate the confirmation letter at this time altogether.

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<sup>2</sup> As described in Section 4, PPL Electric is proposing a functionality that would permit a single switch between scheduled meter reads to address the identified concern. The Company is not proposing functionality to permit frequent (for example, weekly or daily) switches.

PPL Electric also believes that the functionality to read meters between scheduled monthly meter reads to affect switches is properly defined as “smart meter technology” consistent with the requirements of Act 129 of 2008 (“Act 129”) and the Commission’s Smart Meter Procurement and Installation Implementation Order entered June 24, 2009 at Docket No. M-2009-2092655 (“Implementation Order”). While neither Act 129 nor the Implementation Order specifically identifies off-cycle switching as a required functionality, the functionality is consistent with other functionalities that are specifically identified:

- Title 66 Pa. C.S. Section 2808(g) defines “smart meter technology” to mean technology “that records electricity usage on at least an hourly basis.” Capturing usage through a portion of the normal monthly billing cycle in order to facilitate the switching of a customer’s generation supplier is largely an extension of this capability.
- The Implementation Order establishes that smart meter technology must be capable of delivering hourly reads at least once per day. (Implementation Order at 16) Delivering usage through a day other than the end of the normal monthly billing cycle in order to facilitate the switching of a customer’s generation supplier is largely an extension of this capability.

Accordingly, the Company believes that provision of such functionality is appropriately part of its Smart Meter Plan and that costs associated with the implementation of such functionality should be recoverable under the Company’s Smart Meter Rider.

### **3. Comments on “Interim Proposals”**

#### **A. Eliminating the 10-Day Waiting Period and Timely Notification to EDC of Customer Switch**

As stated in Section 2, PPL Electric believes that there is economic rationale for making some level of investment to accelerate supplier switching times. With that said, while the Company supports shortening the current switching window of 16 days, the Company does not support eliminating the confirmation letter and waiting period to achieve this end.

While the 10-day waiting period is intended to give the customer time to contact the EDC to cancel the switch of a supplier in cases where the customer did not authorize the switch of supplier, it also provides increased opportunity for the EDC to rescind a customer enrollment at the request of a customer and/or of an EGS. With a shortening of the existing 16-day window, PPL Electric will be less able to rescind a customer enrollment upon receipt of a drop from an EGS or from a customer's request, after the switching deadline. With the proposed elimination of the waiting period, the Company believes that the critical path of the sequence of switching activities is such that it will be unable to rescind an enrollment. Often PPL Electric receives calls from customers and/or drop notices from suppliers requesting a customer's enrollment be “pulled” after the switching deadline, but prior to the meter read date. PPL Electric processes approximately 10 rescinds per week at the request of customers and/or EGSs. These requests for the Company to pull a customer enrollment are not always predicated on unauthorized switching by an EGS. For example, requests to pull a customer's enrollment are often the result of

customer confusion resulting from an incomplete understanding of their decision to switch in the first place or around a customer receiving notification of a cancellation fee.

Assuming the elimination of the 10-day waiting period, the Company's inability to rescind customer enrollments prior to the meter read date is driven by PJM requirements around timely submittals of ICAP (Capacity) and NITS (Transmission) tag values to PJM on the behalf of suppliers. PJM requires EDCs to submit ICAP and NITS tag values two days in advance of the effective date. PJM uses ICAP and NITS information to invoice suppliers. PJM does not allow ICAP and NITS information to be reconciled at a future date. In the event that PPL Electric would rescind a customer enrollment transaction after submittal of ICAP and NITS tag values on the behalf of a supplier, the likelihood exists that a supplier would end up paying capacity and transmission costs for a customer they will not be serving. PPL Electric does have the ability to reschedule and correct eSchedules through PJM's Settlement A and Settlement B reconciliation process, however these settlements relate to energy and not to ICAP and NITS values submitted by an EDC to PJM which are not reconcilable. While there may currently be a minimal number of incidents of slamming, PPL Electric believes having an EDC retain the ability to process rescinds is important to maintaining the smooth functioning of the retail competitive market – from the perspective of the EDC, EGSs, and customers.

**Interim Guideline A. Purpose.**

The Company agrees it is important to shorten the time period that it takes to transfer customer accounts from an EDC or DSP to an EGS, and from

one EGS to another EGS, while protecting customers against slamming. However, the Company does not agree with eliminating the confirmation letter and waiting period.

**Interim Guideline B. Scope.**

PPL Electric has no comments regarding this Interim Guideline.

**Interim Guideline C. Definitions.**

PPL Electric concurs that the “switching deadline” be established in the EDC’s or DSP’s tariff based in part on its operational requirements. As noted elsewhere in these comments, the introduction of automated meter reading as well as changed requirements at PJM regarding capacity and transmission obligations has significantly changed what happens within the current 16-day window. Accordingly, the establishment of the switching deadline must reflect uniqueness associated with each EDC’s particular circumstances.

**Interim Guideline D. Waiver of Regulations.**

The Tentative Order provides that the changes proposed in the interim guidelines require the “waiver” of existing Commission regulations at 52 Pa. Code §§ 57.173 – 57.174. Tentative Order, p. 23. Although the Commission indicates that the “waivers will remain in effect until revisions to 52 Pa. Code § 57.173 and § 57.174 are finalized in a Commission rulemaking,” see Tentative Order, p. 15, it is clear that the general blanket waiver of the existing regulations is intended to temporarily repeal, amend, and replace the existing switching regulations with the Interim Guidelines.

Case law and statutes of this Commonwealth provide that the Commission is bound by its own properly promulgated regulations, and that the Commission is precluded from ignoring, repealing, or amending such regulations without undertaking the required procedures for formal rulemakings. Here it is clear that the Commission intends the general blanket waiver of the existing regulations to temporarily repeal, amend, and replace the existing switching regulations with the Interim Guidelines.

It is clear that the Commission has the authority to waive its regulations when it is necessary and in the public interest. Section 5.43 of the Commission's regulations provides that the Commission may issue, amend, waive or repeal a regulation, stating, in pertinent part, as follows:

(a) A petition to the Commission for the issuance, amendment, waiver or repeal of a regulation must set forth clearly and concisely the interest of the petitioner in the subject matter, the specific regulation, amendment, waiver or repeal requested, and cite by appropriate reference the statutory provision or other authority involved. The petition must set forth the purpose of, and the facts claimed to constitute the grounds requiring the regulation, amendment, waiver or repeal. Petitions for the issuance or amendment of a regulation shall incorporate the proposed regulation or amendment.

52 Pa. Code § 5.43. The plain language of Section 5.43 clearly provides for a case-by-case waiver upon a petition that meets all the requirements of Section 5.43 of the Commission's regulations. Although Section 5.43 of the Commission's regulations provides the Commission with authority to waive its regulations, there is nothing in the Public Utility Code or the Commission's regulations that authorizes the Commission to grant a general or blanket waiver of properly promulgated regulations.

For these reasons, PPL Electric believes that the statements of policy or interim guidelines in the Tentative Order cannot act as a blanket waiver, ignore, repeal, or amend, even temporarily, the existing switching regulations. Absent the promulgation of new regulations, the switching regulations cannot be ignored and are binding on the Commission, EDCs, EGSs, and customers.

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

Based on the Commission's definition of "switching deadline" in Interim Guideline C ("Definitions") in Appendix A of the Tentative Order, PPL Electric's switching deadline, assuming the elimination of the 10-day confirmation letter, would require that an EGS submit an inbound EDI 814 enrollment transaction by 1:00 p.m. on the 8<sup>th</sup> calendar day prior to the scheduled meter read date (this accounts for the loss of two business days associated with the Thanksgiving holiday weekend).

In regards to the Commission placing responsibility on the EGS to obtain information about the customer's meter read date and switching deadline, PPL Electric currently makes this information available to EGSs via the Eligible Customer List ("ECL"); although, because customers may elect not to have their account listed in the ECL, not every customer is included on the ECL and, consequently, the information may not be available. A supplier can also submit an EDI 867 Historical Usage Request for a customer prior to enrollment and the response to that request will contain the meter read cycle

for a customer. A supplier can then reference the “Meter Reading Schedule” posted on PPL Electric’s Supplier web site to find the scheduled meter read date associated with that meter read cycle. The Company agrees that providing this information to customers may help to minimize customer confusion regarding the date that a switch from one generation supplier to another will be effective. PPL Electric believes that the more consistent information customers can obtain, the more it will encourage customer confidence regarding retail competition.

**Interim Guideline F. EGS Notification to EDC of Customer Account Transfer Notice.**

PPL Electric is unclear how an “account transfer notice” differs from an EDI 814 Enrollment transaction and recommends including a definition of the term “account transfer notice” in Interim Guideline C (“Definitions”). EGSs currently are responsible for submitting an EDI 814 Enrollment transaction to PPL Electric before the switching deadline to ensure a customer’s account is transferred to the EGS at the customer’s next immediate meter read date.

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

52 Pa. Code Section 54.5(d) requires that customers shall be provided a “3-day right of rescission period” following receipt of the disclosure statement from an EGS. The Code further specifies that the “3 days” are “3 business days”. However, it does not specify whether an EGS can send in an

enrollment prior to the end of the 3 business days or whether, in the alternative, the EGS must wait until the end of the rescission period to submit the enrollment. The Tentative Order notes, at page 4, that EGSs are using both approaches. PPL Electric's analysis of the accelerated schedule indicates that, if a supplier does not wait for the end of 3 business days, then; although, the customer can end his obligation with the EGS in accordance with consumer contract law, the PJM capacity and transmission scheduling procedures are such that there is no opportunity to "un-enroll" the customer. The consequence is that the EGS, who the customer has decided he/she does not want, will be the customer's generation supplier and that EGS will have to work with the supplier (either the DSP or another EGS) the customer would otherwise be with, to assure that the customer is compensated for any lost savings or other damages. That combination of entities will also need to figure out whether to re-enroll the customer for a future billing period, how that will be done, and whether the suppliers need to compensate each other for costs incurred at PJM. PPL Electric requests that the Commission provide clarity in the guidelines and Final Order as to whether the disclosure statement is to serve as a "dead period" in the interest of minimizing such occurrences and their consequences; in which case the Interim Guideline should clearly state that EGSs shall not submit enrollments until after the expiration of the rescission period.

If the expectation is that an EGS is responsible for waiting 3 business days after a customer's receipt of the disclosure statement prior to sending an

EDI 814 Enrollment transaction to the EDC, it is important to understand that the EDCs have no way of monitoring an EGS' compliance with the 3-day contract rescission period since it is not possible, under current rules and practices, for the EDC to know the initial time of *customer* contact with the EGS.

#### **Interim Guideline H. Disclosure Statement**

The Company's response to "Interim Guideline E", above, addresses the information already provided by the Company to EGSs regarding a customer's next immediate meter read date and the switching deadline associated with that date.

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

PPL Electric agrees that the EGS is responsible for obtaining and retaining appropriate evidence of the customer's consent to transfer his or her account.

#### **Interim Guideline J. Records.**

This provision requires a customer's authorization to transfer his or her service account to an EGS or DSP be retained for a period of time equivalent to at least 6 billing cycles. In the event of a dispute or complaint, these records are to be maintained for three years from the date of the dispute or the complaint. PPL Electric currently retains X12 transactions (all EDI) for a

period of seven years. PPL Electric only records instances when a customer contacts PPL Electric to report an unauthorized transfer of his or her service account to an EGS. PPL Electric retains these records for a period of 6 years plus the current year.

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

PPL Electric currently processes EDI 814 Enrollment transactions submitted by an EGS prior to the 16-day window so that a customer's account is transferred to the selected EGS by the customer's next immediate meter read date. The Company is prepared to undertake billing system and processing modifications necessary to accommodate different requirements, however, as stated elsewhere in these comments, the Company believes that a shortening of the current 10-day waiting period, rather than the elimination of that waiting period, is a better approach.

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

PPL Electric currently sends a confirmation letter to a customer by the end of the next business day after receiving a customer enrollment. This aligns with the requirement to send out an account transfer letter to the customer by the end of the next business day after receiving an account transfer notice from an EGS.

Assuming the purpose of an account transfer letter is to inform a customer about the transfer of his or her account to an EGS, PPL Electric

agrees with directing the customer to contact the EGS if they have any questions about the notice instead of PPL Electric as is the case with the existing 10-day confirmation letter. PPL Electric would likely “soften” the content of the sample account transfer letter provided in Appendix B of the Tentative Order so as to make the letter more understandable to customers.

PPL Electric always uses a paper letter via US mail to send a confirmation letter to a customer. We would be open to sending a letter electronically. However, system changes would be required to send a letter electronically to customers who are enrolled in paperless billing or who have agreed to receive electronic notices, letters and other communications from PPL Electric.

**Interim Guideline M. EGS Rescission of Account Transfer.**

PPL Electric requests that the Commission provide guidance regarding Interim Guideline M.1 which states, “An EGS may rescind the transfer of a 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.” This would appear to be a “process change” that an EGS would need to take into account when submitting rescind transactions to an EDC. This does not appear to be something that would require any changes from the EDC’s perspective—the switching deadline would not change.

PPL Electric does not currently charge an EGS for costs related directly to the rescission of a customer account transfer notice by the EDC or DSP. Additional costs would be incurred to establish systems and processes for tracking of costs incurred as a result of EGS actions and for follow-up to ensure timely payment of outstanding balances. PPL Electric does not agree with Interim Guideline M.3 which states, "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." This guideline puts the EDC in the position of having to "chase" an EGS for recovery of costs incurred as a result of the EGS's actions and introduces the risk that such costs will not be recovered. PPL Electric believes it is more appropriate that these costs be recovered from customers through base rates in order to avoid the extra expenses and risk of non-recovery associated with the proposed approach.

**Interim Guideline N. EDC Rescission of the Account Transfer.**

Interim Guideline N states, "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..." PPL Electric suggests the Commission may want to give further consideration to this approach. As explained earlier in these comments, the Company receives calls for rescinds that are not always predicated on unauthorized switching by an EGS. The Company speculates that treating all

such contacts as “slamming” may result in otherwise unnecessary administrative procedures and costs being incurred.

For the same reasons as stated above in the Company’s response to Interim Guideline M, PPL Electric does not agree with Interim Guideline N.2 which states, “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.” PPL Electric believes it is more appropriate that these costs be recovered from customers through base rates.

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

PPL Electric agrees with treating all slamming allegations as disputes, however, we suggest an alternative approach to the direction that any request for the EDC to rescind the transfer of a customer’s account be treated as a dispute involving a slamming allegation, as stated in our response to Interim Guideline N.

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

PPL Electric agrees that 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. However, the Company takes exception with the construction of Interim Guideline P.2. P.2 states that, consistent with due process and presumably a finding of fault, fines and other penalties as deemed necessary will be imposed. The Company believes this to send an

appropriate message regarding the Commission's view on slamming while also providing the Commission appropriate discretion to mete out "punishment that fits the crime." P.2.a, however, states that "(t)he unauthorized transfer of a customer account...will result in a fine or other penalties for an EDC or DSP." The Company is concerned that this could be interpreted to mean that, regardless of whether it caused, contributed to, or was no way involved in an unauthorized switch, an EDC or DSP will be penalized. Such an interpretation would deny the EDC or DSP due process and be, in the Company's opinion, completely unfair. The Company notes the use of the words "can result" in P.2.b. (with regard to penalties that may be applied to EGSs) and believes that the words "will result" in P.2.a. should be revised to "can result" or "may result".

## **B. Consumer Education**

The Tentative Order recognizes the importance of educating consumers regarding the switching process so that they have a reasonable set of expectations as to what steps are required, why they are required, and the timeframe within which they will be performed. Accordingly, the Tentative Order proposes the following actions:

- The Commission's PaPowerSwitch.com website should provide information about the EDC account transfer letter, the role of the monthly meter read cycle in switching, and questions consumers may want to ask their EGSs about switching time frames and effective dates.

- The Commission's Office of Communications should review its educational materials and update them as necessary; especially, in regards to consistency with any new processes that result from this proceeding.
- EDCs and EGSs should review their educational materials and update them as necessary. EGSs should also review marketing materials including sales scripts and update them as necessary; especially, in regards to consistency with any new processes that result from this proceeding.

PPL Electric concurs with all of these proposals.

#### **4. Comments on "Long Term Proposal"**

*As stated in Section 2, PPL Electric believes that the ability to switch customers' generation supplier on dates other than the scheduled monthly meter read date can provide significant benefits to a broad range of customers. The Company also believes that provision of such functionality is appropriately part of its Smart Meter Plan and that costs associated with the implementation of such functionality should be recoverable under the Company's Smart Meter Rider.*

- PPL Electric prefers the term "off-cycle switches" to the term "mid-cycle switches" because the latter connotes the creation of a second inflexible switch requirement mid-way between scheduled meter read dates. While such an approach would provide some improvement, PPL Electric believes that it might actually involve more complexity and would definitely provide less benefit than

an approach that would permit a switch to occur on more than just two dates within the bill cycle.

- PPL Electric supports an approach which retains the monthly billing cycle, but which permits two different generation suppliers to serve within a particular month. The Company believes that such an approach, which would retain the primary billing structure set forth in Chapter 56, could avoid the need for significantly overhauling regulations and the logic in billing systems that reflects those regulations. The Company has used this approach to bill seasonal time-of-use rates across a change in seasons that occurs on a specific calendar date within a billing period. Such an approach would, however, require revisions to EDEWG protocols; especially, in regard to the matter of sending two EDI 810 transactions for the same bill period. As noted elsewhere in these comments, the Company is proposing a functionality that would permit a single switch between scheduled meter reads to address the identified concern. The Company is not proposing functionality to permit frequent (for example, weekly or daily) switches.
- Such an approach would not accommodate mixed billing options during a billing period. A switch from EDC consolidated billing or dual billing to EGS consolidated billing; or from EGS consolidated billing to either EDC consolidated billing or dual billing could only be accomplished on the normal monthly billing date. Similarly, the mixing of rate-ready and bill-ready options during the same primary period is likely to be problematic. Attempting to accommodate all of

these options will be significantly more complex and likely require revising the Commission's regulations on billing standards.

- *The use of demand rates and fixed monthly charges in the generation or transmission portions of the bill (i.e., those portions of the bill that would be split between two different suppliers) is likely to be problematic because the customer could be billed two demand charges and/or two monthly charges in the same month. Again, attempting to accommodate all of these options will be significantly more complex and likely require revising the Commission's regulations on billing standards.*
- The Company believes that, based on a very preliminary assessment, it could achieve a shortening of the 10-day waiting period and the implementation of the off-cycle switching capability outlined above for less than \$1 million. The Company believes that an appropriate schedule would be to allow EDEWG to establish EDI protocols during 2012 and to include this work in its next update of its Smart Meter Plan for implementation in 2013. The Company expects that some work currently included in its Smart Meter Plan will have to be delayed in order to accomplish this work in either 2012 or 2013.

## **5. Conclusion**

PPL Electric appreciates the opportunity to comment on this Tentative Order. As stated above, PPL Electric supports the Commission's efforts to bring real and meaningful improvement to the retail electricity market. In that regard, the Company supports the Commission's objective to shorten the current switching window of 16 days so that fewer customers will have to wait for two monthly meter reads to pass

before they can be switched to their chosen generation supplier. However, the Company does not support eliminating the confirmation letter to achieve this end. The Company believes that the confirmation letter is an important consumer protection that benefits all shoppers whereas the shortening of the 16-day window only benefits that segment of shoppers who happen to shop during a particular 7 days of their bill cycle. The Company believes that a better approach, which balances consumer protection and faster switching, would be to shorten the waiting period associated with the confirmation letter. Such an approach would obviate the need for the interim guidelines proposed in this Tentative Order. Nevertheless, the Company has provided comments on each of the interim guidelines proposed in the Tentative Order which it requests the Commission to consider in the event that the Commission's decision is to proceed with elimination of the waiting period. Finally, the Company believes that the more correct approach to addressing the issue of switching logistics is to pursue off-cycle switches. The Company believes that the ability to read meters and bill accounts outside of the traditional monthly-read paradigm is an element of smart meter functionality and is appropriately included in EDC's smart meter plans.

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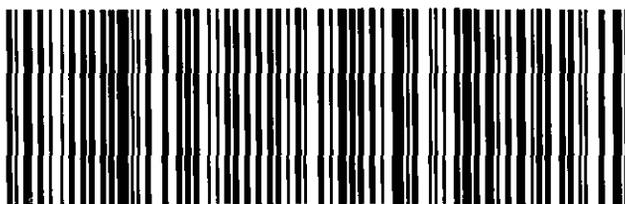
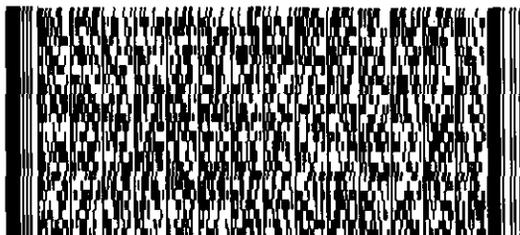
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