February 1, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan;
Docket No. 1-2011-2237952

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the original and five (5) copies of the Reply Comments of the Industrial Energy Consumers of Pennsylvania ("IECPA"), Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customers Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups") in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and Reply Comments, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By Teresa K. Schmittberger
Counsel to the Industrial Customer Groups

Enclosures

c: Office of Competitive Market Oversight Retail Markets Investigation (via e-mail)
Certificate of Service
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION


REPLY COMMENTS OF THE INDUSTRIAL CUSTOMER GROUPS

Pamela C. Polacek (PA I.D. No. 78276)
Teresa K. Schmittberger (PA I.D. No. 311082)
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors

Dated: February 1, 2012
I. INTRODUCTION

The Pennsylvania Public Utility Commission's ("Commission") received a number of Comments regarding its Intermediate Work Plan, proposed in a Tentative Order issued December 15, 2011. The Intermediate Work Plan was adopted as part of the Investigation of Pennsylvania's Retail Electricity Market, and included recommendations for how electric distribution companies ("EDCs") and electric generation suppliers ("EGSs") could encourage increased customer electric shopping through retail enhancement programs. Comments were due at the Commission on January 17, 2012, and Reply Comments must be submitted no later than February 1, 2012.

The Industrial Energy Consumers of Pennsylvania ("IECPA") is an association of energy-intensive industrial companies operating facilities across the Commonwealth of Pennsylvania. IECPA's members consume in excess of 25% of the industrial electricity in Pennsylvania and employ approximately 41,000 workers. Also sponsoring these Comments are coalitions of industrial customers receiving service from most of the Commonwealth's EDCs: Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups").

Because the Industrial Customer Groups use substantial volumes of electricity, their customer information maintained by EDCs reflects highly confidential aspects of their businesses. As Large Commercial and Industrial ("C&I") customers, information about their electricity usage in particular indicates when their manufacturing or operational processes are occurring. Given the confidential nature of this information, the EDC must act as the gatekeeper
to ensure that only those entities authorized are able to access a customer's information. Furthermore, Large C&I customers already participate in electric shopping, and do not require retail enhancement programs to encourage this participation. As a result, any cost recovery for these programs from customers should be contained to other customer classes.

II. REPLY COMMENTS

As discussed in the Industrial Customer Groups' January 17, 2012 Comments, Letters of Authorization ("LOAs") do not provide EGSs with blanket authorization to access a customer bill, and only authorize EGSs to access customer data for the limited purpose of preparing a customer's bid. The FirstEnergy Corporation ("FirstEnergy") Companies, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company, agreed that LOAs do not permit EGSs to access bills from EDCs, and explained that providing customer bills to EGSs is not within the Companies' operational capacities. Duquesne Light Company ("Duquesne") also stated that customer bills are not released to EGSs without the customer's consent, and Duquesne's LOAs, as written, do not elicit such consent. By contrast, the Retail Energy Supply Association ("RESA") commented that there are some circumstances in which EGSs might benefit from access to a customer's EDC bill, and therefore, customer bills should be available to EGSs. RESA further contended that EDCs should assume EGSs are authorized to receive customer data, and should not require a LOA or other documentation before releasing a customer's bill or other information to the EGS.

Considering the Comments of the FirstEnergy Companies and Duquesne Light Company, there is little doubt that LOAs do not authorize EGSs to access customer bills from EDCs. Thus,

---

2 Comments of Duquesne Light at 33 (January 17, 2012).
3 Comments of the Retail Energy Supply Association at 18 (January 17, 2012).
4 Id.
only the EGS contracted with a customer may access the customer's EDC bill, and only after the customer provides consent. If a customer has a problem with a particular bill, it is not an excessive burden for the customer to e-mail or fax a copy of the bill to its customer service representative at the EGS so the EGS can attempt to resolve the problem.

With respect to other customer usage data, including rate schedules, load profiles, transmission/capacity obligations, and tax status, the Industrial Customer Groups likewise agree that it is reasonable for an EGS serving a customer to access that specific customer's data, unless the customer has requested for certain data to be withheld. Nevertheless, once the customer's contract with the EGS ends, the ability for the EGS to access the customer's data and bills from the customer's EDC should be automatically revoked. If the customer restricts all information from the Eligible Customer List, no EGSs or entities may access the customer's usage data, unless the customer has specifically authorized access for that entity.

The Large C&I customer's usage data gathered by an EDC may reflect important internal decisions by the customer, which could be used by competitors to develop pricing strategies to the customer's disadvantage. This usage information is private, and must be treated as highly confidential by the EDC to protect the viability of Pennsylvania businesses and industries. Similar to a physician who is authorized by his or her patient to review the patient's medical records, an EDC is permitted access to all customers' private electric purchase and usage decisions solely because of its special relationship with the customer. Just as a physician may not release medical records to a third party without specific authorization because the doctor assumes it is permissible, an EDC cannot release a customer's usage data because it assumes the customer is dealing with the EGS. Explicit customer consent should be necessary before the
customer's private information is released to other entities. Accordingly, contrary to the beliefs of RESA, the EDC must act as a gatekeeper for customer data.

Additionally, in response to many stakeholders who commented regarding the cost recovery procedures for the proposed retail enhancements within the Tentative Order, including customer education, customer referral programs, and opt-in auctions, the Industrial Customer Groups believe that none of these program costs should be collected from Large C&I customers. As further detailed in the Industrial Customer Groups Comments dated November 23, 2011 in this docket, these programs are not proposed to apply to Large C&I customers, nor can they benefit Large C&I customers in any way. The Commission explicitly stated within the Tentative Order that the customer education mailings should only be sent to residential and small commercial customers, and the customer referral programs and opt-in auctions should not be open to Large C&I customers. The Industrial Customer Groups recommend that EGSs should be responsible for all retail enhancement costs, because EGSs directly benefit from the increased competitive customer base created by these programs. However, if the Commission proposes a combination cost recovery from both customers and EGSs, the costs of these programs should be contained to the customer classes who will benefit, i.e., the residential and small commercial customers.
WHEREFORE, the Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By

Pamela C. Polacek (PA I.D. No. 78276)
Teresa K. Schmittberger (PA I.D. No. 311082)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors

Dated: February 1, 2012
CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

VIA E-MAIL AND HAND DELIVERY

Office of Competitive Market Oversight
Retail Markets Investigation
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
ra-RMI@state.pa.us

H. Kirk House
Office of Special Assistants
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 3rd Floor East
Harrisburg, PA 17120
hhouse@pa.gov

Daniel Mumford
Bureau of Consumer Services
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor East
Harrisburg, PA 17120
dmumford@pa.gov

Johnnie E. Simms, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120
josimms@state.pa.us

Steven C. Gray, Esquire
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
sgray@state.pa.us

Darryl Lawrence, Esquire
Aron J. Beatty, Esquire
Jennedy S. Johnson, Esquire
Tanya J. McCloskey, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Forum Place
Harrisburg, PA 17101-1923
dlawrence@paoca.org
abeatty@paoca.org
jjohnson@paoca.org
tmccloskey@paoca.org

VIA E-MAIL AND FIRST CLASS MAIL

Gary A. Jack, Esq.
Duquesne Light Company
411 Seventh Ave. 16-1
Pittsburgh, PA 15219
gjack@duqlight.com

Theodore S. Robinson, Esq.
Citizen Power
212 Murray Avenue
Pittsburgh, PA 15217
robinson@citizenpower.com
Certificate of Service
Docket No. I-2011-2237952
Page 2

Todd S. Stewart, Esq.
Hawke McKeon & Sniscak LLP
P.O. Box 1778
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com

Paul E. Russell, Esq.
Associate General Counsel
PPL Electric Utilities, Inc.
Two North Ninth Street
Allentown, PA 18108-1179
perussell@pplweb.com

Daniel Clearfield, Esquire
Deanne O'Dell, Esquire
Carl R. Shultz, Esquire
Eckert Seamans Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17108-1248
dclearfield@eckertseamans.com
dodell@eckertseamans.com
cshultz@eckertseamans.com

Bradley A. Bingaman, Esquire
Tori L. Giesler, Esquire
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading PA 19612-6001
bbbingaman@firstenergycorp.com
tgiesler@firstenergycorp.com

Anthony E. Gay, Esquire
Jeanne J. Dworetzky, Esquire
Exelon Business Services Company
2301 Market Street
PO Box 8699
Philadelphia, PA 19101
anthony.gay@exeloncorp.com
jeanne.dworetzky@exeloncorp.com

Linda R. Evers, Esquire
Stevens & Lee
111 N. Sixth Street
P.O. Box 679
Reading, PA 19603-0679
lre@stevenslee.com

Michael A. Gruin, Esquire
Stevens & Lee
17 North Second Street, 16th Floor
Harrisburg, PA 17101
mag@stevenslee.com

Dana Pirone Carosella, Esquire
Stevens & Lee
620 Freedom Business Center, Suite 200
King of Prussia, PA 19406
dpc@stevenslee.com

Chris Hendrix
Wal-Mart Stores, Inc.
2001 S.E. 10th Street
Bentonville, AR 72716
chris.hendrix@wal-mart.com

Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
PULP@palegalaid.net

Michael Meath, President
Strategic Communications, LLC
3532 James Street, Suite 106
Syracuse, NY 13206
mmeath@stratcomllc.com

Frank Caliva, III
Strategic Communications LLC
1012 14th Street NW, Suite 1106
Washington, DC 20005
fcaliva@stratcomllc.com
Certificate of Service
Docket No. 1-2011-2237952
Page 3

Craig G. Goodman
Stacey Rantala
National Energy Marketers Association
3333 K Street NW Suite 110
Washington, DC 20007
cgoodman@energymarketers.com
srantala@energymarketers.com

Elizabeth R. Marx, Esq.
Pennsylvania Coalition Against Domestic Violence
3605 Vartan Way
Harrisburg, PA 17110
erm@pcadv.org

Terrance J. Fitzpatrick
Energy Association of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17102
tfitzpatrick@energypa.org

Richard Hudson
Director of Energy Affairs
ConEdison Solutions
1102 Park Square
Munhall, PA 15120
hudsonr@conedsolutions.com

Madelon Kuchera
BlueStar Energy Services
363 West Erie Street
Chicago, IL 60654
mkuchera@bluestarenergy.com

Scott J. Schwarz, Esq.
City of Philadelphia
1515 Arch Street, 16th Floor
Philadelphia, PA 19102-1595
scott.schwarz@phila.gov

Brian J. Knipe
Buchanan Ingersoll & Rooney, PC
17 North Second Street, 15th Floor
Harrisburg, PA 17105-1503
brian.knipe@bipc.com

Jay Kooper
Director of Regulatory Affairs
Hess Corporation
One Hess Plaza
Woodbridge, NJ 07095
jkooper@hess.com

Thu B. Tran, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
ttran@clsphila.org

Courtney Lane
Citizens for Pennsylvania’s Future
1500 Walnut Street, Suite 502
Philadelphia, PA 19102
lane@pennfuture.org

Benjamin L. Willey
Law Offices of Benjamin L. Willey LLC
7272 Wisconsin Avenue, Suite 300
Bethesda, MD 20814
blw@bwilleylaw.com

Elise Caplan
Project Manager
American Public Power Association
1875 Connecticut Avenue, NW
Washington, DC 20009
ecaplan@publicpower.org

Ray Landis, Advocacy Manager
AARP
30 N. 3rd Street, Suite 750
Harrisburg, PA 17101
rlandis@aarp.org
Certificate of Service
Docket No. I-2011-2237952
Page 4

Amy M. Klodowski, Esquire
FirstEnergy Solutions Corp.
800 Cabin Hill Drive
Greensburg, PA 15601
aklodowski@firstenergycorp.com

Divesh Gupta, Esquire
David Fein
Constellation Energy
100 Constellation Way, Suite 500C
Baltimore, MD 21202
divesh.gupta@constellation.com
david.fein@constellation.com

Noel Trask, Esquire
Exelon Business Services Company
300 Exelon Way
Kennett Square, PA 19348
noel.trask@exeloncorp.com

Harry Kingerski
Spark Energy, L.P.
2105 City West Blvd, Suite 100
Houston, TX 77042
hkingerski@sparkenergy.com

Mark C. Morrow, Esquire
UGI Utilities, Inc.
460 North Gulph Road
King of Prussia, PA 19406
mmorrow@ugicorp.com

John J. Gallagher, Esquire
711 Forrest Road
Harrisburg, PA 17112
jgallagher@iglawpa.com

Enver Acevedo, Esquire
Consolidated Edison Company, Inc.
4 Irving Place
New York, NY 10003
acevedoe@coned.com

Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
elatiehm@ugicorp.com

VIA FIRST-CLASS MAIL

Honorable Camille George
Pennsylvania House of Representatives
38B East Wing
Harrisburg, PA 17120-2020

Edward V. Johnstonbaugh
Future Times Energy Aggregation Group
474 Justabout Road
Venetia, PA 15367

david.stepp@futuretimes.com

tim.stephens@futuretimes.com

Honorable Phyllis Mundy
120th Legislative District
36 East Wing
P.O. Box 202120
Harrisburg, PA 17120-2120

David S. Cohen
President
Rescom Energy LLC
20 East Avenue
Bridgeport, CT 06610

Tim Locascio
Manager
Liberty Power Corp.
1970 West Cypress Creek Road, Suite 600
Fort Lauderdale, FL 33309
Certificate of Service
Docket No. I-2011-2237952
Page 5

Dr. Vera J. Cole
Mid-Atlantic Renewable Energy Association
2045 Upper Rocky Dale Road
Green Lane, PA 18054

Christopher C. O'Hara, Esq.
NRG Energy Inc.
211 Carnegie Center Drive
Princeton, NJ 08540

Harry A. Warren, Jr.
Washington Gas Energy Services, Inc.
13865 Sunrise Valley Drive, Suite 200
Herndon, VA 20171-4661

Teresa K. Schmittberger
Counsel to the Industrial Customer Groups

Dated this 1st day of February, 2012, at Harrisburg, Pennsylvania