**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held September 27, 2012

Commissioners Present:

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| Robert F. Powelson, Chairman  John F. Coleman, Jr., Vice Chairman |
| Wayne E. Gardner  James H. Cawley |
| Pamela A. Witmer |

Interim Guidelines For Natural Docket No.

Gas Distribution Company M-2012-2324075

Eligible Customer Lists

**TENTATIVE order**

**BY THE COMMISSION:**

Before the Commission, upon our own motion, are proposed guidelines to provide for more uniformity in the customer account information provided by Natural Gas Distribution Companies (NGDCs) to Natural Gas Suppliers (NGSs) to assist in the development of the retail market for natural gas supplies. We take this action to provide guidance to NGDCs and NGSs alike similar to the non-binding guidelines we issued for the benefit of the electric industry.[[1]](#footnote-1) With this Tentative Order, we issue for public comment these draft interim guidelines for Eligible Customer Lists (ECLs) maintained by NGDCs.

**BACKGROUND**

On March 6, 2012, Dominion Retail, Inc., Interstate Gas Supply, Inc., and Shipley Choice, LLC, petitioned us at Docket No. P-2012-2291983 (Petition) for a declaratory order stating that NGDCs were under a continuing obligation to provide complete customer lists to NGSs operating in their service territories without the imposition of fees on the NGSs. The Petition was specifically directed at Columbia Gas of Pennsylvania and National Fuel Gas Distribution Corporation, both of which are NGDCs. The NGS petitioners in that proceeding were relying upon our order in *Procedures Applicable To Natural Gas Distribution Companies And Natural Gas Suppliers During the Transition to Full Retail Choice; Final Order*, Docket No.M-00991249F0009, Final Order entered May 12, 2000 (Transition Final Order), the *Transition Tentative Order[[2]](#footnote-2)* which proceeded it and our regulation at 52 Pa. Code § 62.78 (privacy of customer information).

In our Order regarding the Petition we conclude that the Transition Final Order, Transition Tentative Order and our regulation at Section 62.78 do not require the continued provision of customer lists at no cost to the NGS. Both NGDCs that were the subject of the Petition stated that they will continue to provide customer lists to NGSs on a voluntary basis and we are pleased with those actions. However, it is apparent from the pleadings in that declaratory order proceeding that there is much divergence among NGDCs concerning the provision of customer lists. The Petition and the responses from the NGDCs and the marketers indicate to us that it would benefit the continued development of the retail market for natural gas supply in Pennsylvania for the Commission to provide uniform guidelines concerning the composition of lists of eligible customers and the terms relating to the provision of these ECLs to NGSs.

**DISCUSSION**

In setting forth guidelines for NGDCs and NGSs to follow, we are guided by our *Electric ECL Order.* The general parameters of retail marketing natural gas to the public should be little different from those governing the retail marketing of electric power. Therefore, the major decisions made with regard to the electric industry will not be reconsidered here. For example, (1) licensed competitive suppliers should have access to the distribution utility customer lists, (2) licensed competitive suppliers are obligated to safeguard the confidentiality of customer information and (3) customers will have the opportunity to restrict the release of all of their account information, just the historical data or none of their account information. *Electric ECL Order* at 2-3, 6-11. Absent a convincing argument why the nature of the nature gas industry compels us to adopt a different result, we will not re-address these general principles.

**Data Points**

Our *Electric ECL Order* specified a total of 25 data points, however, we believe that the 10 data points set forth in Appendix A to this Order are sufficient for the natural gas industry. These 10 points contain such basic information as customer name, billing address, service address and account number. We assume that all information not restricted by the customer will be provided to the NGS as part of the ECL or access to a secure website. This means that a NGDC will not withhold part of any data point such as an account number to act as a check on the veracity of a NGS’s claim to serve a customer. The Commission and NGDCs have sufficient mechanisms in place to address claims of slamming.

Customer telephone numbers are not part of the ECL for the electric industry and, similarly, will not be part of the ECL for the natural gas industry. Nonetheless, we will caution NGSs, other marketers and agents that they remain subject to the provisions of the state and federal “do not call” laws as well as our consumer protection regulations at 52 Pa. Code § 56, *et seq.* (Standards and billing practices for residential utility service).

**Solicitation of Customers**

As stated above, when a NGDC solicits its customers regarding the release of their account information, it shall offer the customer the choice to prohibit release of all of their account data or just the historical data. The customer may make this initial choice by returning a form to the NGDC through the mail or by any other means discussed below. As with the electric industry, the NGDC should use an opt-out process. *See, Electric ECL Order* at 11-17.

We will expect that each NGDC that has not solicited its customers within the 12 months prior to of the effective date of the final order in this proceeding will solicit its customer within 90 days of that effective date. All NGDCs that have solicited their customers within that 12 month period will be expected to solicit those customers again not later than one year after the prior solicitation. Furthermore, we expect NGDCs to develop new lists and require all customers to make their opt-out selections once every three years. Customers that have previously opted out will need to opt out again during these tri-annual list updates.

**Frequency of Future Solicitations**

Each NGDC should solicit its customers at least annually, however, we will consider on-going activities in place of an annual solicitation. In our *Electric ECL Order* we stated:

In lieu of annual companywide solicitations, EDCs shall actively notify customers of their withholding options through each new customer’s welcome package and through periodic announcements in customer bill inserts, e-mail, or a separate announcement included in the customer’s paper bill or electronic notification, if available. The welcome package for new customers and periodic announcements for all customers shall also provide guidance on how to make the selection through company-provided form, e-mails, written letter, toll-free numbers, or the EDC website.

*Electric ECL Order* at 23. We believe that that policy makes good sense for the natural gas industry as it does for the electric and will follow it here.

**Expense of solicitations**

We recognize that the costs of soliciting customers, preparing and distributing ECLs is a legitimate business expense for NGDCs. Therefore, NGDCs may request recovery of these expenses through base rates as opposed to a fee or surcharge levied on any one group of customers of NGSs. We note that our discussion here should in no way be deemed to be an approval of the level of any such expense claimed.

**CONCLUSION**

This matter is being issued as a Tentative Order to provide market participants with the opportunity to comment on these issues. Accordingly, we will direct that this Tentative Order be served on all NGDCs, NGSs licensed to provide service in the Commonwealth, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the Pennsylvania Coalition against Domestic Violence. Comments to this Tentative Order shall be due within 30 days of the entry date. Reply comments may be filed 15 days thereafter. To the extent that a participant recommends an outcome that differs from the tentative determinations set forth above, the recommendation should be supported by sufficient technical and operational information that would support a contrary finding; **THEREFORE,**

**IT IS ORDERED:**

1. That the Interim Guidelines for Eligible Customer Lists as set forth in this Tentative Order are issued for comment.

2. That comments to this Tentative Order are due within 30 days of the entry date of this Tentative Order. Interested parties may submit original written comments, no copies required, to the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments may also be filed electronically through the Commission’s e-File System. Reply comments may be filed 15 days thereafter.

3. That this Tentative Order shall be served on all Natural Gas Distribution Companies, Natural Gas Suppliers licensed to provide service in the Commonwealth, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the Pennsylvania Coalition against Domestic Violence.

4. That a copy of this Tentative Order shall be posted on the Commission’s website.

5. That the contact person for this matter is Lawrence F. Barth, Assistant Counsel, 717-772-8579.

6. That a final order shall be issued subsequent to the receipt and evaluation of any comments filed in accordance with this Tentative Order.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: September 27, 2012

ORDER ENTERED: September 27, 2012

**APPENDIX A**

**Natural Gas ECL Customer Data Elements**

1. Customer Account Number
2. Customer Name
3. Service Address
4. Billing Address
5. Tariff Rate Class and Schedule
6. Rate Subclass/Rate Subcode (if available)
7. Meter Read Cycle
8. SOLR/Shopping Status (Y or N)
9. Monthly Consumption (each of 12 months)(Mcf)
10. Monthly Peak Demand (each of 12 months) (Mcf/d) (if available)

1. *Interim Guidelines For Eligible Customer Lists*, Docket No. M-2010-2183412, Final Order on Reconsideration entered November 15, 2011 (Electric ECL Order). [↑](#footnote-ref-1)
2. *Procedures Applicable To Natural Gas Distribution Companies And Natural Gas Suppliers During the Transition to Full Retail Choice; Request for Comments*, Docket No. M-00991249F0009, Tentative Order entered April 13, 2000 (Transition Tentative Order). [↑](#footnote-ref-2)