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November 10, 2014

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company,
Pennsylvania Power Company and West Penn Power for Temporary Waiver of Technical
Requirements Under 52 Pa. Code § 57.174 – Docket No. P-2014-2449010;
P-2014-2449015; P-2014-2449017; P-2014-2449027

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Retail Energy Supply Association's ("RESA")
Answer to FirstEnergy's Petition for Temporary Waiver of Billing Regulations with regard to the
above-referenced matter. Copies to be served in accordance with the attached Certificate of
Service.

Sincerely,

Deanne M. O'Dell

DMO/lww
Enclosure

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of RESA's Answer to Petition upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via E-mail and/or First Class Mail

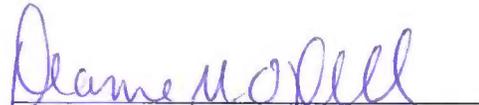
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Date: November 10, 2014


Deanne M. O'Dell, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Metropolitan Edison Company,	:	
Pennsylvania Electric Company, Pennsylvania	:	Docket No. P-2014-2449010
Power Company and West Penn Power for	:	P-2014-2449015
Temporary Waiver of Technical Requirements	:	P-2014-2449017
of 52 Pa. Code § 57.174	:	P-2014-2449027
	:	

**ANSWER OF RETAIL ENERGY SUPPLY ASSOCIATION TO FIRSTENERGY
PETITION FOR TEMPORARY WAIVER OF BILLING REGULATIONS**

Pursuant to 52 Pa. Code §§ 5.61(a) and 1.56(b), the Retail Energy Supply Association (“RESA”)¹ submits this Answer in response to the Petition filed by Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power (collectively, “FirstEnergy”) involving its proposal to implement accelerated switching as required by 52 Pa. Code §§ 57.171-57.180. FirstEnergy seeks to implement a first phase interim process that will all customers to request one off-cycle switch per billing cycle with any additional requests being processed on-cycle for that given period while it works to full implementation (“Phase 2”) consistent with the regulations by December 31, 2015. FirstEnergy seeks a temporary waiver of the Commission’s regulations to the extent necessary to implement its proposals.

RESA is a strong proponent of accelerated switching and appreciates the efforts of FirstEnergy (and other EDCs) to implement internal processes to comply with the

¹ RESA’s members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent only those of RESA as an organization and not necessarily the views of each particular RESA member.

implementation deadline required by 52 Pa. Code § 57.180. Although this proceeding is limited to FirstEnergy's requested waiver, RESA must first express its concern regarding the lack of any real opportunity provided to EGSs to offer any input during the development phase of all of the EDC's accelerated switching plans. Importantly, RESA is concerned about the decisions of all of the major EDCs to not allow use of the electronic data interchange ("EDI") enrollment request to include an effective date for the enrollment.² However, given RESA's support of accelerated switching, RESA is cautious about raising any concerns or objections to the individual EDC implementation plans. On the one hand, RESA is eager for accelerated switching to become a reality in Pennsylvania – the first retail market outside of Texas to boldly adopt this customer-oriented vision. On the other hand, accelerated switching has significant operational, business process, contractual and hedging practice impacts for EGSs and RESA is particularly concerned about the potential negative and unintended consequences that may flow from all of the EDC's chosen implementation methods.

Given the importance of this issue and its direct impact on EGSs and their customers, RESA's members expected a much more inclusive and collaborative process to implement accelerated switching. Although very high level updates were provided on occasional CHARGE and EDEWG calls, RESA is unaware of any structured opportunity for EGSs to provide input into the EGSs accelerated switching plans during the development stage. If this opportunity to

² UGI Utilities, Inc. – Electric Division, a smaller EDC, seeks a waiver of the regulations for a number of reasons including the fact that the legacy customer information system it shares with its sister natural gas distribution utilities is in the early stages of a planned systems replacement project, the low levels of shopping in the service territory and the fact that no complaints were received regarding variable rate products. *Petition of UGI Utilities, Inc. – Electric Division to Defer Implementation of Portions of Revised Standards For Changing a Customer's Electric Generation Supplier at 52 Pa. Code §§ 57.174 and 57.180 and to Implement an Alternative Method to Address Certain Variable Rate Disputes*, Docket No. P-2014-2449397, Petition filed October 23, 2014. RESA would recommend the EDI protocols discussed herein be implemented as part of UGI's system replacement project. Regarding UGI's temporary proposal, to address customer concerns retroactively (see UGI Petition at ¶ 19), RESA does not oppose this approach at this time so long as – consistent with UGI's proposal – both the supplier and the customer agree with the selected resolution of the customer's complaint.

provide input had been provided, RESA's concerns about how not using an EDI process to include an enrollment effective date might have been reasonably addressed.

Nevertheless, regarding FirstEnergy's Petition, RESA generally supports FirstEnergy's proposals but urges the Commission to direct FirstEnergy to implement EDI protocols that would allow EGSs to specify the enrollment effective date. This will accomplish the following:

- Allow customers to select a future enrollment date;
- Allow EGSs to better operationalize enrollment effective dates;
- Avoid significant customer dissatisfaction over the imposition of early termination fees; and,
- Allow EGSs to minimize enrollment delays while also ensuring that the 3 day rescission period is honored.

I. RESA'S INTEREST IN THIS PROCEEDING

RESA is a trade association of power marketers, independent power producers, and a broad range of companies within the Mid-Atlantic marketplace, each of whom support the electric services industry and seek to develop a more competitive power industry. RESA members are licensed to sell electric energy in the markets of Pennsylvania's major EDCs, including the service territory of FirstEnergy. RESA members will be substantially affected by the outcome of this proceeding in the following significant ways.

First, the Commission has made clear to EGSs that they must "review their internal procedures to ensure that they are in compliance with the accelerated switching regulations by December 15, 2014."³ EGSs' ability to comply with this requirement is directly dependent on ensuring that their internal systems are capable of accommodating an EDC's selected method for effectuating an accelerated switch. In other words, EGSs need to know what information and in

³ *Accelerated Switching Regulations at 52 Pa. Code §§ 57.171-57, 180*, Docket Number L-2014-2409383, Secretarial Letter dated September 8, 2014.

what format an EDC needs to effectuate an off-cycle switch. Therefore, the Commission's decision here will have a substantial impact on the ability of EGSs to fulfill their own obligations with respect to accelerated switching.

Second, EGSs have an interest in ensuring that they understand the implementation process selected by each EDC so that they can accurately communicate the process to the customer at the time the customer chooses to select the EGS. Thus, for example, requiring all switches to be processed through the accelerated switch methodology may increase the exposure of customers to early termination fees or liquidated damages clauses; and, therefore educating customers about these risks is important. For these reasons, ensuring adequate education of the EGS about an EDC's process will enable the EGS to address any subsequent customer issues or questions that may occur as a result of the process.

Third, as competitive suppliers, EGSs have a general interest in ensuring that the competitive marketplace is reasonably functioning from the viewpoint of a customer. If a customer is confused about the switching process or thinks that he/she is being required to pay more to shop, such confusion could lead to dissatisfaction with the shopping experience and create barriers to entry for EGSs.

For all these reasons, RESA has an interest in this proceeding and respectfully requests that the Commission consider its input in addressing FirstEnergy's Petition.

II. FIRSTENERGY SHOULD IMPLEMENT EDI PROTOCOLS THAT WOULD ALLOW EGSS TO SPECIFY THE ENROLLMENT EFFECTIVE DATE

RESA is fully supportive of accelerating the switching time in order to facilitate a more customer-oriented shopping experience. As RESA has previously advocated, the current switching process is grossly out of line with standards for service in other industries, such as mobile phone service or cable television, where service can be initiated or changed in some cases

instantaneously.⁴ To address this, the Commission's recently enacted accelerated switching regulations require an EDC to change a customer's EGS within three business days of the receipt by the EDC of the electronic enrollment transaction.⁵ These regulations became effective on June 14, 2014 and require the new switching timeframe to be implemented by December 15, 2014.⁶

RESA recognizes that the Commission did not provide specific technical guidance to the EDCs about how to implement the new accelerated switching regulatory requirements; however, RESA is concerned about implementing an accelerated switching process where all switches are processed as off-cycle switches. If all enrollment transactions are processed as off-cycle switches, some customers will likely be exposed to more frequent early (and inadvertent) cancellation penalties. Moreover, limiting off-cycle switches to once per billing cycle means that the EGS has no ability to know in advance whether its enrollment will be processed as an accelerated switch or as an off-cycle switch. Consider the situation where a customer has a regular meter read date of December 31. If an EGS receives, for example, an online enrollment request for a new customer on December 10th, the EGS – which is not currently serving the customer – does not know whether this new customer will be eligible for an accelerated, off-cycle switch in the month of December. If the EGS transmits the enrollment shortly after the customer signs up online, such as December 13th, one of two things will happen. Under one scenario, the enrollment will be accepted as an off cycle switch and the customer's service will begin with the new EGS on December 17th. Under a second scenario, if the customer has

⁴ See, e.g., *Interim Guidelines Regarding Standards For Changing a Customer's Electricity Generation Supplier*, Docket Number M-2011-2270442, RESA Comments to Tentative Order dated December 14, 2011 at Tentative Comments at 2.

⁵ 52 Pa Code § 57.174(a).

⁶ 52 Pa Code § 57.180

already used its one off cycle switch that month, the enrollment will not become effective until the regular meter read date on December 31. The EGS cannot know in advance which scenario will occur. If the customer is under contract with its existing EGS through the December meter read date, December 31, the first scenario could result in the customer incurring an early termination fee. If the EGS could specify the enrollment effective date, the EGS can ask the customer to provide its current contract end date at the time of enrollment and then specify an enrollment effective date after this date to avoid any early termination fees for the customer.

Another benefit of this functionality is the management of the legal requirement that mass market customers have a three business day rescission period. Under the current plans, EGSs must manage the rescission period by delaying the initial enrollment transaction while waiting for the three business day rescission period to pass (because if an EGS sends the enrollment request before then and the customer chooses to rescind, the EGS cannot cancel the enrollment process). If the EGS could specify the enrollment effective date, then the EGS could initiate the enrollment immediately but transmit an effective date after expiration of the rescission period. If the customer chooses to rescind during this three day period, the EGS would transmit a rescind EDI transaction to cancel the pending enrollment.

Similarly, in the case of larger commercial accounts, they could be more frequently exposed to liquidated damages provisions if an EGS cannot specify the enrollment date. This is because a customer who selects a new EGS during the ending month of their current contract, is much more likely to switch before their current contractual end date, which for most customers would currently be defined as the regularly scheduled meter read date. The following example illustrates this point:

- A customer originally signed up under a fixed price contract in January 2014 for a 12 month term. The customer's meter read date is January 29th. Currently, most

EGSs define contract terms based on the regular meter read date. So, this customer would have a term extending through January 29th, 2015.

- If the customer shops and selects a new EGS during January 2015, they are likely to believe that if they switch in January, they will be honoring their existing contract. However, consistent with the way that all the EDCs have chosen to implement accelerated switching, if the customer's new EGS initiates the EDI enrollment transaction at any time before January 26th, the switch will happen before the customer's contracted end date.
- This may expose the customer to early termination fees or liquidated damages provisions for commercial contracts. In the case of large commercial customers, the mark to market loss associated with liquidating a partial month's worth of supplies can be substantial.

To address these concerns, customers who wish to avoid such fees should be permitted to define their switch effective date. Doing so is consistent with 52 Pa. Code § 57.173(2) which expressly requires the EDCs and EGSs to allow a customer to indicate an enrollment date in the future. Modifying the EDI enrollment transaction to permit the new EGS to specify the switch effective date would enable a customer to advise the new EGS of the existing contract end date and the new EGS can use this information to implement the enrollment in a way that avoids any early termination fees for the customer.

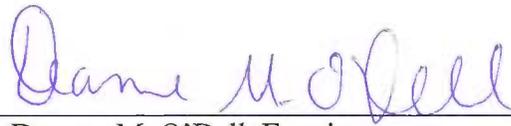
In sum, directing FirstEnergy to implement EDI protocols that would allow EGSs to specify the enrollment effective date would accomplish the following:

- Allow customers to select a future enrollment date;
- Allow EGSs to better operationalize enrollment effective dates;
- Avoid significant customer dissatisfaction over the imposition of early termination fees; and,
- Allow EGSs to minimize enrollment delays while also ensuring that the 3 day rescission period is honored.

III. CONCLUSION

Based on a balancing RESA's support of accelerated switching with concerns about the negative consequences that may result due to a lack of ability for EGSs to specify the enrollment date, RESA recommends that the Commission direct FirstEnergy to implement EDI protocols that would allow EGSs to specify the enrollment effective date.

Respectfully submitted,



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