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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |
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|  | Public Meeting held September 3, 2015 |
| Commissioners Present: |  |

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| Gladys M. Brown, Chairman | |
| John F. Coleman, Jr., Vice Chairman  James H. Cawley  Pamela A. Witmer, Statement | |
| Robert F. Powelson | |
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| Submission of the Electronic Data Exchange Working Group’s Web Portal Working Group’s Solution Framework for Historical Interval Usage and Billing Quality Interval Use | M-2009-2092655 |

# FINAL ORDER

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) is the joint recommendation from the Commission’s Office of Competitive Market Oversight (OCMO) regarding electric distribution company[[1]](#footnote-1) (EDC) development of a standardized solution for the acquisition of historical interval usage (HIU) and billing quality interval use (BQIU) data via a secure web portal. Based on the recommendations provided in the Electronic Data Exchange Working Group’s (EDEWG) *Pennsylvania Web Portal Working Group Solution Framework*[[2]](#footnote-2) regarding the intended standard(s) for the development of EDC web portals, as well as a review of the feedback on the Solution Framework provided by the parties noted herein, we direct that those EDCs with smart meter requirements implement, within twelve months of the entry date of this Final Order, the Single User – Multiple Requests (SU-MR) option outlined in the Framework. Additionally, we direct that those EDCs with smart meter requirements implement, within fourteen months of the entry date of this Final Order, the System-to-System (StS) functionality outlined in the Framework. Lastly, we direct EDEWG to reconvene the Web Portal Working Group (WPWG), with mandatory EDC participation, in order to develop (but not implement) standards for a uniform StS functionality. The WPWG must submit to the Commission, for its review and approval, its recommendations within six months of the entry date of this Final Order. The Commission will then provide further direction to the EDCs regarding the implementation of the StS functionality, as well as the potential recovery of costs.

**BACKGROUND**

In our *Smart Meter Procurement and Installation Final Order,* at Docket No. M-2009-2092655 (Order entered December 6, 2012) (hereinafter Dec. 2012 Final Order), we directed EDEWG to convene a WPWG to develop standardized solutions for third-party[[3]](#footnote-3) acquisition of a customer’s HIU and BQIU data via an EDC-provided, secure web portal.[[4]](#footnote-4) The Dec. 2012 Final Order required EDEWG to complete its development standards for the HIU solution by March 1, 2014, with the completion of its development standards for the BQIU solution by March 1, 2015. The Order only required the completion of the standards by these dates. *Id.* at 14.

The EDEWG Leadership (Leadership), with the full support of the WPWG membership, filed on February 4, 2014, a request that the Commission modify the scope of the proposal so that both the HIU and BQIU standards could be filed no later than March 1, 2015.[[5]](#footnote-5) The WPWG asserted that many of the utilized processes, data and technology elements common to both required standards would be more efficiently synergized in generating these standards. This request was granted via a Secretarial Letter dated April 17, 2014, at the aforementioned docket.

On February 17, 2015, Leadership filed the Solution Framework. Leadership affirmed that this document outlined the standards for a secure web portal solution that would permit third parties, such as electric generation suppliers (EGSs) and conservation service providers (CSPs), to acquire both HIU and BQIU data within 48 hours of daily meter reads. Leadership further asserted that the document was a group consensus regarding the minimally-required standards for the required secure web portals.[[6]](#footnote-6)

Leadership maintained that the only non-consensus item from the WPWG was determining whether the implementation of an StS solution by the EDCs should be mandatory or optional. In this regard, Leadership had requested that the Commission resolve this issue, as well as provide guidance for the implementation and timing of the consensus items.[[7]](#footnote-7)

In the Framework, the WPWG provided an overall request-response portal framework, with three basic options from which to choose:

1. **Single User - Single Request (SU-SR).** A user-based platform allowing for an authorized user to manually log into the portal, request, and receive data for one individual account at a time via the portal’s user interface. The results could be rendered within the web portal interface itself or exported to the user in a predefined file format.
2. **Single User - Multiple Requests (SU-MR).** Similar to SU-SR, except that the authorized user logging into the portal may submit and receive data for more than one account number as part of a single request.
3. **System-to-System (StS)** – Initially conceived as a platform allowing an authorized user’s information technology (IT) systems to communicate directly with the web portal system of the EDC without requiring a user to manually log into the web portal itself and leverage the user interface. For instance, this could involve the use of File Transfer Protocol, aka “FTP,” or web services to transmit and satisfy requests.[[8]](#footnote-8)

After discussion, the WPWG agreed to focus on the SU-MR structure as the minimum required standard on which the deliverables should focus. However, some participants in later WPWG meetings voiced concerns regarding this approach and indicated a long-term preference for implementation of the StS structure.[[9]](#footnote-9)

EDEWG requested that the Commission approve the Solution Framework; provide guidance regarding its expectations for implementation of the solutions as part of smart meter implementation; and make a determination regarding the StS non-consensus issue.[[10]](#footnote-10)

In our *Submission of the Electronic Data Exchange Working Group’s Web Portal Working Group’s Solution Framework for Historical Interval Usage and Billing Quality Interval Use* Tentative Order*,* at Docket No. M-2009-2092655 (Order entered April 23, 2015) (hereinafter the Tentative Order), we proposed that the EDCs implement the SU-MR option within eight months of the entry date of a Final Order in this proceeding and to implement a mandatory StS functionality within 12 months of the date of the Final Order. Furthermore, the Statement of Commissioner James H. Cawley was placed into the record, asking market participants to provide responses to six specific questions posed to them (listed in the Discussion Section, below). Comments were due within 30 days of the entry date of the Tentative Order.

The following parties submitted comments to the Tentative Order: Direct Energy (DE); NRG Retail Affiliates, consisting of Reliant Northeast LLC d/b/a NRG Home, Green Mountain Energy Company and Energy Plus Holdings, LLC (collectively, NRG); the Retail Energy Supply Association (RESA); WGL Energy Services, Inc. (WGL); Energy Association of Pennsylvania (EAP); the Mission:data Coalition (Mission:data); the Industrial Energy Consumers of Pennsylvania, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Groups, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors (collectively, IECPA); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, FE); PECO Energy Company (PECO); Duquesne Light Company (DUQ); PPL Electric Utilities Corporation (PPL); and the EDEWG Leadership (Leadership).[[11]](#footnote-11)

**DISCUSSION**

**COMMISSIONER CAWLEY’S QUESTIONS**

In his Statement, Commissioner Cawley asked market participants to provide feedback to six specific questions:

1. **What are the implementation costs for the SU-MR option, as well as the StS solution?**

- AND -

1. **Assuming the StS functionality is to be implemented, what are the incremental costs of the SU-MR option? In other words, are the implementation costs for the SU-MR solution reduced if the StS solution is implemented?**

The responses to these two questions will be provided in the Cost Recovery Section of this Final Order.

1. **Can the Green Button solution[[12]](#footnote-12) serve as an effective substitute for the SU-MR option?**

**a. Comments**

Leadership, PPL, and FE claim that the Green Button solution does not serve as an effective substitute for the SU-MR option. Furthermore, FE states that the Green Button has historically been ineffective in ensuring that customers’ personal identifying information is not contained in the energy data it provides. Leadership Comments at 1-2; PPL Comments at 12; FE Comments at 10. PECO, though, believes that the SU-MR and the Green Button standard are not mutually exclusive. PECO further opines that they already provide customers with access to the Green Button “Download My Data” option, and that it would be reasonable to integrate a download option into the SU-MR solution. PECO Comments at 7-8.

Mission:data advocates for the use of the Green Button “Connect My Data” standard as a critical enabler for the industry as a whole because it provides a convenient, well-understood national standard that allows customers convenient access to their data. Mission:data further argues that a national standard avoids a balkanized market that otherwise impedes innovation and competitive solutions. Mission:data Comments at 2-6. Mission:data contends that the Green Button “Connect My Data” has been implemented by parties in California as well as Illinois. Misson:data Comments at 4. Mission Data further opines that in states without advanced metering systems and data access, the kinds of savings presented in their comments require the customers to install separate metering systems, often at the cost of thousands of dollars. Mission:data Comments at 5.

**b. Resolution**

The Commission agrees with Leadership and those EDCs that believe the Green Button solution does not meet the needs of the Commission and EDEWG. Furthermore, the Green Button solution was reviewed by the WPWG and was determined to not contain all of the data elements provided in the Framework. Leadership Comments at 1-2.

1. **If the Green Button solution is currently not an effective substitute, can its functionality or access limits be modified, and at what cost, to make it suitable for this purpose?**

**a. Comments**

FE, PPL, and Leadership all believe that any change to Green Button would not be cost effective. Furthermore, Leadership maintains that any attempt to modify the Green Button standard would need to be discussed and vetted by various governing bodies, and this process would require more time. FE Comments at 10-11; PPL Comments at 12; Leadership Comments at 2. PECO, however, opines that the Green Button functionality known as “Connect My Data” could be integrated into the StS solution. PECO Comments at 8.

**b. Resolution**

The Commission agrees with Leadership that any attempt to modify the Green Button standard would be time consuming and difficult. We further agree with Leadership that a change to the Green Button standard would need to go through various other governing bodies, and possibly lengthy legal processes.

1. **Is it practical for all system users to use the StS solution, or is this more costly and burdensome than the SU-MR solution for lower data volume users?**

The responses to this question will be discussed in the Required Functionality, Uniformity, and Timeframe Section, below.

1. **What other standards are appropriate for this working group to establish in order to assure that a consistent solution is developed across all EDCs?**

**a. Comments**

FE recommends that EDEWG continue to work with the Commission to develop an alternative option for non-licensed third parties to develop a certification process that binds a third party to the same policies and procedures regarding customer data that are required for EGSs. FE Comments at 11-12.

PPL believes that the EDCs and stakeholders involved in the WPWG have agreed to a specific output format but notes that EDCs may have different security guidelines around infrastructures, protocols, authentication, authorization, and access controls which could influence consistency. PPL further contends that due to the diverse capabilities of the EDCs’ systems, the EDCs should work through these issues during implementation and testing stages for both the SU-MR and StS solutions. PPL Comments at 12-13.

PECO maintains that any additional standards should provide sufficient flexibility such that EDCs can develop solutions within the context of applicable enterprise-wide policies, processes, and procedures. PECO further encourages the Commission to actively partner with Leadership on any further standards development and notes that engagement of technical subject matter experts will be necessary. PECO Comments at 9-10.

Leadership contends that if an StS option is mandatory, EDEWG must agree to and publish the XML/WSDL data structure as an EDEWG standard before EDC development may begin. Leadership recommends reconvening the WPWG with mandatory EDC participation to develop and present the final structure and standard, which could take four to six months to complete. Leadership also points out that the “Active EGS” Rolling 10-Day Solution option[[13]](#footnote-13) is only for BQIU and will not provide HIU. Leadership Comments at 2-3.

**b. Resolution**

As discussed more fully below, by this Order, we will direct the WPWG to reconvene and develop the appropriate standards for a mandatory StS solution.

**WEB PORTAL ACCESS AND CUSTOMER CONSENT**

In the Tentative Order, this Commission stated that the intention of our Dec. 2012 Final Order is clear; however, we attempted to resolve the apparent confusion revealed in the “consensus” framework advanced by the WPWG. We agreed with the WPWG that our intention was to provide, in an efficient manner, customer HIU and BQIU data in order to empower all stakeholders, including, but not limited to, consumers, EDCs, licensed EGSs, CSPs and other entities who have obtained customer consent regarding the release of the data. We also clarified that only those entities with customer permission, whether through the Eligible Customer Lists (ECLs), Letters of Authorization (LOAs), other direct contracts with the customer, etc., would be provided with the HIU and BQIU data. The Commission maintained that in order for the market to develop innovative products, this data must be readily accessible to those parties outlined above. (Tentative Order at 9)

This Commission also claimed in the Tentative Order that in order to maximize the benefits of smart meter technology the EDCs should be providing those entities that have obtained customer consent with that customer’s HIU and/or BQIU data in an efficient and timely fashion. (Tentative Order at 9)

In our June 2009 Smart Meter Procurement and Installation Implementation Order, this Commission allowed for a grace period during which EDCs were not required to install a smart meter at a customer’s premises.[[14]](#footnote-14) However, we did require the EDCs to provide interval data capable meters, if the existing meter is not capable of providing interval data, allowing third parties, such as EGSs or CSPs, access to the customer’s interval data.[[15]](#footnote-15) Additionally, while we adopted in our Smart Meter Implementation Order, as a minimum standard, a 48-hour lag in the provision of customer data, we noted that, ideally, such information should be available within 24 hours.[[16]](#footnote-16) (Tentative Order at 9-10)

**1. Comments**

DUQ requests clarification on the EDCs’ obligations as they relate to third parties access to customer HIU and BQIU data, as well as clarification that the explicit customer consent language in the Tentative Order is not intended to be a departure from the Commission’s precedent requiring implied consent. DUQ Comments at 8-10.

FE does not support the development of this offering for purposes of providing information to non-licensed third parties (*i.e.*, CSPs, consultants providing historical bill audits, rate analyses, performance contracting, etc.). FE states that this data is already available to such parties from either the customer they serve, through the customer web portal, or by placing their own equipment on a customer’s premises. FE notes that EGSs are bound by policy and practices approved by the Commission and that the Commission has no legal recourse or other limitations for unlicensed third parties. FE also offers that if granted access, third parties would need to be licensed or certified in some way to protect customer data, but indicates that the limitations of portal access to only licensed EGSs is not likely to create a meaningful impact to CSPs. FE Comments at 3-6.

PECO requests clarification regarding the scope of third party eligibility to utilize the proposed SU-MR and StS solutions, the customer data protections that will apply to HIU and BQIU data, and how the Commission intends to enforce such protections against non-EGS third parties. PECO asserts that the Framework recommended restricting third party access to customer data to EGSs or entities serving as agents of an EGS and that the use of the web portals by third parties not licensed as EGSs was outside the scope of the WPWG effort. Finally, PECO declares that the design of the Framework reflects the responsibility of EGSs, not EDCs, to manage EGS receipt of appropriate customer authorization. PECO Comments at 3-4.

PPL avers that it takes customer privacy and the requirements for the ECL very seriously. PPL expresses concern that the Tentative Order could be construed to mean that non-licensed entities should be permitted access to customer data through the EDCs’ web portals. PPL alleges that the Framework only contemplates disclosing customer data to licensed EGSs and Broker/Marketers “who are subject to [Commission] audit for the same.” PPL also contends that EDCs should not be responsible or liable for policing whether non-licensed third parties have obtained customer consent for release of customer data. PPL Comments at 7.

Leadership requests clarification on data access and maintains that the Solution Framework, in Section 2.1.2, only addresses access to licensed EGSs and Broker/Marketers because of consumer privacy concerns and data access liability with regard to EDC exposure. Leadership Comments at 3.

IECPA requests that the Commission ensures the web portals implemented by all EDCs limit disclosure of customer usage data to EGSs and/or other entities with explicit customer authorization. IECPA contends that customer usage data constitutes highly sensitive and confidential information, such as proprietary manufacturing schedules and operations, which would be a significant advantage to competitors. IECPA Comments at 3-4.

Mission:data notes that the Tentative Order left unaddressed the question of data access for other, non-EGS third parties, noting that “the capability for other 3rd parties (entities not licensed by the PAPUC as EGSs) to access this information is outside the scope of the WPWG effort” and that “Such entities are NOT eligible for access to the web portal and must obtain customer data access via other means.” Mission:data Comments at 3.

**2. Resolution**

In the Tentative Order, the Commission stated “We agree with the WPWG that our intention was to provide, in an efficient manner, customer HIU and BQIU data in order to empower all stakeholders, including, but not limited to, consumers, EDCs, licensed EGSs, CSPs and other entities who have obtained customer consent regarding the release of the data.” (Tentative Order at 9) However, we did not intend that all of these stakeholders should be granted access to the web portals, and had specifically intended to stress the words “in an efficient manner,” above, as it related to the StS option as compared to the SU-MR option, believing that implementing only an SU-MR option may be inefficient for larger EGSs.

The Commission agrees with most of the respondents that all access to the web portals should conform to Section 2.1 of the Solution Framework. Specifically, this Commission has always held that customer privacy is of paramount importance. Furthermore, we agree that unlicensed third parties, as well as other consumers, should not be granted access to the web portals, except as an agent of a licensed EGS or as an Act 129 Energy Efficiency and Conservation Program CSP contracted with the EDC and as specified in Section 2.1 of the Framework. 52 Pa. Code § 54.8 of the Commission’s regulations provides standards, to be followed by both EGSs and EDCs, regarding the confidentiality of customer information. Additionally, 52 Pa. Code § 54.43(d) requires EGSs to keep their customers’ information confidential, including, but not limited to, load and billing information. While we are providing for the ability of an EGS and/or a CSP to obtain customer usage information through the SU-MR and StS functionalities, we emphasize that this Commission maintains a zero tolerance policy regarding customer information and confidentiality. We remind both EGSs and EDCs that they will be held responsible for any misuse of customer information by both their own representatives, as well as by third party representatives, such as Act 129 CSPs, with which the EDCs and EGSs may have entered into a contract or otherwise established an agency relationship.

We acknowledge that there may be concerns regarding data access for CSPs and similarly situated third parties. However, third parties can still access customer data through the customer portals and/or their own equipment, so long as they have obtained customer permission. Also, third parties can access the web portals as contractors under a licensed EGS. However, EGSs must not give data to contracted third parties without the customer’s consent. Additionally, should an instance occur in which a contractor misuses a customer’s data, this Commission will hold the EGS with which that contractor was affiliated to be the responsible party. 52 Pa. Code § 54.43(d).

The Commission reserves the right to revisit third party access at a future point in time, if any changes occur or a process for licensing third parties is implemented.

Regarding the term “explicit customer consent” used in the Tentative Order, this term was not intended to be a departure from the Commission’s precedent regarding implied consent. Furthermore, the Commission agrees with PPL and PECO that it is the responsibility of the EGSs, not the EDCs, to manage EGS receipt of appropriate customer authorization(s).

**REQUIRED FUNCTIONALITY, UNIFORMITY, AND TIMEFRAME**

After lengthy discussion in the Tentative Order, the Commission proposed that those EDCs with smart meter requirements implement the SU-MR option within eight months of the entry of this Final Order. Additionally, we proposed that the EDCs with smart meter requirements implement the StS functionality within twelve months of the entry date of this Final Order. (Tentative Order at 12)

**1. Comments**

FE submits that the StS solution is only viable as a vehicle to provide EGSs with ten days of rolling BQIU data for the customers that they are currently serving. FE Comments at 11. FE, PPL, PECO, and Leadership all contend that low volume users (smaller EGSs and/or CSPs) would most likely prefer the SU-MR solution, while high volume users (large EGSs) would most likely prefer the StS solution, meaning they believe that both solutions have their place. FE Comments at 11; PPL Comments at 4, 6, 12; PECO Comments at 8-9; Leadership Comments at 5.

NRG, WGL, DE, and RESA, however, believe that EGSs will find no value in the SU-MR solution and contend that the StS solution should be implemented first. They further assert that the StS solution should be easier and cheaper for the EDCs to implement, and specifically request the “Active EGS” Rolling 10-Day Batch CSV files (Active EGS) solution be implemented whereby licensed EGSs would log into existing EDC secure supplier portals and download these files daily. NRG Comments at 4-6; WGL Comments at 1-2; DE Comments at 2; RESA Comments at 2-6.

NRG argues that the StS functionality should be implemented within four months from the date on the Final Order. NRG Comments at 6-7. DE agrees with NRG’s positions; RESA wants StS immediately; and WGL wants StS within six months. DE Comments at 2; RESA Comments at 5; WGL Comments at 1.

DUQ supports the implementation of the SU-MR and StS solutions to provide third parties with access to customer HIU and BQIU data, but is concerned that the privacy and security risks related to the StS solution have not been fully considered. DUQ Comments at 4. Furthermore, DUQ requests an implementation date of the fourth quarter of 2016 for SU-MR and the first quarter of 2017 for StS. DUQ Comments at 8.

FE supports the development of a web portal solution as proposed by the WPWG to include data through both the SU-MR and StS methodologies. FE Comments at 7. However, FE contends that the timeframes should be modified so that the SU-MR and StS solutions be made available the later of twelve months from the date of the Final Order or effective on the date that the individual EDC will have such BQIU data available from smart meters for its own use consistent with the Commission-approved smart meter deployment plan. FE Comments at 8.

PPL generally supports the implementation of the SU-MR option and StS functionality proposed in the Tentative Order and requests that the implementation date for both options be delayed until September 30, 2016, or 12 months after the date of the Final Order, whichever is later. PPL Comments at 3-4. Additionally, PPL requests that any EDC unable to comply with the standard implementation dates be able to file a petition seeking a waiver. PPL Comments at 8.

PECO believes that both the SU-MR and StS solutions have their place in Pennsylvania’s energy choice marketplace. PECO Comments at 8. PECO opines that it would need 14 months from the date of the Final Order to implement the SU-MR option and 18 months from the date of the Final Order to implement StS. PECO Comments at 7. PECO requests that the Commission clarify the level of data quality required for BQIU. PECO opines that what the Commission describes as BQIU may better be described as “Best Available Interval Usage.” (BAIU) Furthermore, PECO contends that in the Dec. 2012 Final Order the Commission adopted PECO’s definition of the term “bill quality” as “data that is sourced from an EDC’s meter data management system that has completed the process of being verified, estimated, and edited (VEE) in association with such systems.” PECO Comments at 5.

Leadership recommends reconvening the WPWG with mandatory EDC participation to develop the XML/WSDL Simple Object Access Protocol (SOAP) structure and present to EDEWG and Commission staff a final standard. Leadership believes this process would take four to six months to complete. Leadership Comments at 2.

In their comments, IECPA proposes that the EDC web portals maintain an event log for each request of for HIU and BQIU data submitted by an EGS or third party, as well as the development of protocols identifying the retention period and providing customers with reasonable access to the event log data from an EDC web portal. (IECPA page 4)

**2. Resolution**

The Commission finds the above arguments for implementing both the SU-MR and StS options persuasive. Ample evidence exists that both options will be utilized if they are implemented.[[17]](#footnote-17) Therefore, the Commission orders those EDCs with smart meter requirements to implement both the SU-MR and StS options.

The Commission agrees with the EDCs that the privacy and security protections related to the StS solution require further development. Furthermore, the Commission requires that a single, uniform StS solution be developed and implemented across all EDCs with smart meter requirements. Therefore, the Commission directs EDEWG to reconvene the WPWG in order to develop, but not implement, an StS solution. The Commission requires those EDCs with smart meter requirements to participate in the WPWG. The WPWG must provide a recommended StS solution to the Commission, for its review and approval, within six months of the entry date of this Final Order. When considering an StS Option, any solution should be designed to scale efficiently with the volume of information from any increases in the number of smart meters or any additional deployments, such as the Batch CSV file solution provided in the Framework.[[18]](#footnote-18) Also, the file layouts from the SU-MR solution must be uniform with the outputs from the StS solution. Finally, access standards and confidentiality of customer information must be established. The Commission will review the WPWG’s submission and provide a Final Order outlining the directives regarding the StS functionality and EDC submission of appropriate compliance plans.

The Commission maintains that the need for the web portals is of a time-sensitive nature. However, we recognize the value that the WPWG could have upon the web portals and the SU-MR option. Accordingly, we modify the proposals outlined in our Tentative Order and provide a timeframe of 12 months from the entry date of this Final Order for the EDCs to implement the SU-MR option. Furthermore, the EDCs must implement the StS option within 14 months from the date of this Final Order.

IECPA recommends logging requests for HIU and BQIU data and the development of protocols regarding record access and retention. However, we agree with Section 2.5 of the Solution Framework which outlines Tracking and Reporting and already contains standards for EDCs to maintain event logs with a retention period of three years.

The Commission has concerns regarding PECO’s suggestion that, as it relates to BQIU, the Best Available Data is appropriate and sufficient. The phrase is not fully described in PECO’s comments and could cause confusion regarding the nature of the data to be provided. In our view, the “Best Available Data” is interval data which is fresh data (within 48 or, preferably, 24 hours) obtained from the smart meter of such validity and granularity to support billing. This should eliminate the need for load curves or similar rate class averaging. To provide anything less would nullify the required smart meter functionality of directly providing customers and their designated third-party representatives with information on their hourly consumption and to support automatic control of the customer’s electric consumption. *See,* 66 Pa. C.S. § 2807 (g).

**COST RECOVERY**

In his Statement referenced above, Commissioner Cawley asked two questions which were directly related to costs and cost recovery:

1. What are the implementation costs for the SU-MR option, as well as the StS solution?

- AND -

1. Assuming the StS functionality is to be implemented, what are the incremental costs of the SU-MR option? In other words, are the implementation costs for the SU-MR solution reduced if the StS solution is implemented?

**1. Comments**

FE estimates that its costs would be $200,000 - $300,000 for the SU-MR option; $400,000 - $800,000 for both SU-MR and StS; and that the costs for implementing SU-MR are not reduced for implementing StS. Furthermore, FE urges the Commission to authorize EDCs to include the costs of compliance with the creation of the SU-MR and StS solutions in the cost of compliance with their respective smart meter deployment plans and associated recovery mechanisms. FE Comments at 9.

PPL estimates that it has already incurred $600,000 for its current version of the portal and that adding the SU-MR or StS options would cost an additional $50,000 each (an additional $100,000 in total). Furthermore, PPL proposes that EDCs be permitted to claim and seek recovery of these costs in their next future base rate case or through existing Competitive Enhancement Riders. PPL Comments at 11.

PECO claims that implementing the SU-MR option would cost $1.8 million with an annual fee of $360,000 and that implementing the StS option would cost $2 million with an annual fee of $400,000 (total cost of $3.8 million with $760,000 annually). PECO also claims that implementation costs for StS would not be reduced by implementing SU-MR and that the shorter implementation timeframes proposed in the Tentative Order would cause its costs to increase 30% - 50%. Furthermore, PECO asserts that cost recovery is not always “one size fits all” and that EDCs should be allowed to recover costs through a base rate case, a non-bypassable surcharge or a retail market enhancement charge depending upon the EDC’s specific circumstances. PECO Comments at 6-7.

**2. Resolution**

The Commission recognizes that the level and recovery of costs associated with the implementation of the SU-MR and StS solutions must be addressed. However, based on the variations in cost estimates provided by the EDCs, as well as the directive included herein requiring the WPWG, with mandatory EDC participation, to further develop StS standards, we determine it to be premature to address cost recovery within this Final Order. Instead, we will address cost recovery and its mechanism(s) following the submission of the WPWG’s recommendations.

**LEGALITY**

In its comments to the Tentative Order, EAP espouses that in order for the Commission to make the StS option mandatory, we must either promulgate regulations or adjudicate the issue in the context of smart meter implementation plans of individual EDCs. EAP Comments at 3. EAP also asserts that the letters filed by NRG, WGL and RESA, that were referenced by this Commission in the Tentative Order, constitute *ex parte* communications. Finally, EAP asserts that the tentative order process used by the Commission in this proceeding does not constitute an adjudication or a valid rulemaking and therefore, cannot establish binding norms of conduct related to the StS option. EAP requests that the Commission not issue a Final Order mandating that EDCs provide StS functionality. EAP Comments at 4 and 5.

To begin with, we note that EAP is mistaken when it describes this proceeding as a contested proceeding or a rulemaking, it is neither. On June 18, 2009, this Commission adopted the Smart Meter Procurement and Installation, Implementation Order to implement the smart meter technology provisions of Act 129 of 2008, codified at 66 Pa. C.S. § 2807(f).[[19]](#footnote-19) This Implementation Order established the minimum smart meter capabilities and guidance on the Commission’s expectations for deployment of smart meters. Among other things, this Implementation Order established guidelines for providing customers and third parties, with customer consent, direct and electronic access to smart meter data.[[20]](#footnote-20) To facilitate the electronic access of smart meter data, this Commission directed the EDCs to propose electronic data interchange (EDI) capabilities through the EDEWG for Commission review.[[21]](#footnote-21)

On February 17, 2015, EDEWG filed an EDI solution framework that requested the Commission to take the following actions: (1) review and approve the Solution Framework; (2) provide guidance to EDCs with respect to regulatory process, implementation timing, and overall expectations regarding incorporation of web portal construction into EDC smart meter implementation plans; and (3) resolve a non-consensus item in Appendix C by addressing whether “System-to-System Considerations” must immediately be mandatory components of implementation plans. The Commission, through this tentative order process is simply providing the guidance EDEWG requested.

EAP’s claim that an adjudication or rulemaking is required in relation to the StS mandate in the current proceeding is misplaced. No party has objected to or requested a hearing related to the implementation of the StS EDI solution, so there is no contested proceeding requiring referral of this matter to an Administrative Law Judge (ALJ) for hearings. Where there are no facts in dispute and the only “issue to be decided is purely one of law or policy, a case may be disposed of without resort to an evidentiary hearing.” *Dee-Dee Cab, Inc. v. Pa. Pub. Util. Comm’n,* 817 A.2d 593, 598 (Pa. Cmwlth. 2003). While some parties object to the timing of the implementation of the StS solution, EDCs are free to seek an extension of the implementation deadline established in this Order. We also note that EDCs will have an opportunity for a hearing before an ALJ if the Commission seeks to issue a penalty for an EDC’s failure to meet the implementation deadline. Regarding the recovery of costs related to implementing the StS solution, EDCs will again have an opportunity to seek recovery of such costs and will be afforded a hearing before an ALJ at that time, if necessary. For these reasons, we find that EAP’s due process concerns are not implicated in this proceeding at this time. Accordingly, we will issue this Final Order establishing the implementation of the StS functionality as set forth in this Order.

The Commission is aware that some EDCs which are not required to implement smart meter technology are nonetheless pursuing deployment. While the data access standards set forth in this Order and the ongoing working group process for the StS solution will clearly serve the EDCs required to deploy smart meter technology, it is not as clear at this time that these same standards will best serve the EDCs that are voluntarily deploying that technology. Accordingly, we direct OCMO to informally contact those EDCs to discuss potential data access options to determine best practices in their particular circumstances.

**CONCLUSION**

Upon full consideration of all matters of record, we direct that those electric distribution companies with smart meter requirements implement, within 12 months of the entry date of a Final Order on this proceeding, the Single User – Multiple Requests option. Additionally, we direct that those electric distribution companies with smart meter requirements implement, within 14 months of the entry date of a Final Order on this proceeding, the System-to-System functionality. We further direct that the EDEWG reinstitute the Web Portal Working Group, with mandatory EDC participation, in order to develop (but not implement) standards for a uniform StS functionality. Within six months of the entry date of this Final Order, the WPWG must submit to the Commission, for its review and approval, its recommended standards. The Commission will then provide further direction to the EDCs regarding the implementation of the System-to-System functionality, as well as the potential recovery of costs.

**THEREFORE,**

**IT IS ORDERED:**

1. That this Final Order shall be served on all Electric Distribution Companies, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and all parties at Docket No. M-2009-2092655.

2. That the Electronic Data Exchange Working Group reconvene the Web Portal Working Group. Participation in this Working Group is mandatory for all Electric Distribution Companies that have smart meter requirements. The Web Portal Working Group is tasked with developing, but not implementing, a proposed uniform standard for the System-to-System functionality of the web portals. Within six months of the entry date of this Final Order, the Web Portal Working Group shall submit to the Commission, for its review and approval, its proposed standard.

3. That a copy of this Final Order shall be posted on the Commission’s website at the Electronic Data Exchange Working Group’s web page - <http://www.puc.pa.gov/utility_industry/electricity/edewg_files_for_downloading.aspx>.

4. That the Commission’s Bureau of Technical Utility Services shall provide a copy of this Final Order to the Electronic Data Exchange Working Group.

5. That the Commission’s Office of Competitive Market Oversight shall provide an electronic copy of this Final Order to the Committee Handling Activities for Retail Growth in Electricity (CHARGE).

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: September 3, 2015

ORDER ENTERED: September 3, 2015

1. These proposals apply only to those EDCs with smart meter technology requirements as outlined at 66 Pa. C.S. § 2807(f). [↑](#footnote-ref-1)
2. *See Pennsylvania Web Portal Working Group Solution Framework*, submitted by EDEWG, at Docket No. M-2009-2092655, received February 23, 2015 (hereinafter Solution Framework or Framework). [↑](#footnote-ref-2)
3. Third parties could include electric generation suppliers and customer-authorized third party entities. [↑](#footnote-ref-3)
4. *See* Dec. 2012 Final Order at pages 13-14. [↑](#footnote-ref-4)
5. *See* Letter from EDEWG, submitted February 4, 2014, at Docket No. M-2009-2092655. [↑](#footnote-ref-5)
6. *See* Solution Framework at cover letter. [↑](#footnote-ref-6)
7. *Id.* [↑](#footnote-ref-7)
8. *See* Solution Framework at 2-3. [↑](#footnote-ref-8)
9. *Id.* at 3. [↑](#footnote-ref-9)
10. *Id.*at cover letter. [↑](#footnote-ref-10)
11. All further references to these entities are a direct reference to their comments submitted either before or during the 30-day comment period created by the Tentative Order at Docket No. M-2009-2092655, unless otherwise stated. [↑](#footnote-ref-11)
12. The Green Button initiative is an industry-led effort to provide utility customers with easy and secure access to their energy usage information in a consumer-friendly and computer-friendly format. Customers are able to securely download their own detailed energy usage with a click of a “Green Button” on electric utilities’ websites. [↑](#footnote-ref-12)
13. *See* Solution Framework at 24. *Also see* Tentative Order at 5-6. [↑](#footnote-ref-13)
14. *See Smart Meter Procurement and Installation* Implementation Order, at Docket No. M 2009 2092655 (Order entered June 24, 2009) (hereinafter Smart Meter Implementation Order), at page 7. [↑](#footnote-ref-14)
15. *Ibid.* [↑](#footnote-ref-15)
16. *Id.* at 23. [↑](#footnote-ref-16)
17. *See* also Tentative Order page 12. [↑](#footnote-ref-17)
18. See Solution Framework at 16. [↑](#footnote-ref-18)
19. *See Smart Meter Procurement and Installation*, Implementation Order at Docket No. M-2009-2092655, entered on June 24, 2009. [↑](#footnote-ref-19)
20. *Id*., at 24-28. [↑](#footnote-ref-20)
21. *Id*., at 25. [↑](#footnote-ref-21)