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September 18, 2015

Via Electronically Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Petition of the NRG Retail Affiliates for Clarification and/or Reconsideration of the Commission's September 3, 2015 Final Order, Docket No. M-2009-2092655

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the NRG Retail Affiliates' Petition for Clarification and/or Reconsideration of the Commission's September 3, 2015 Final Order with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in cursive script that reads "Deanne M. O'Dell".

Deanne M. O'Dell

DMO/lww
Enclosure

cc: Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Petition for Clarification and/or Reconsideration upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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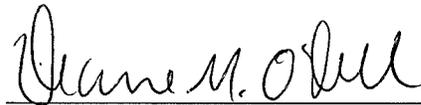
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Dated: September 18, 2015

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Submission of the Electronic Data Exchange :
Working Group's Web Portal Working : Docket Nos. M-2009-2092655
Group's Solution Framework for Historical :
Interval Usage and Billing Quality Interval
Usage

**PETITION OF THE NRG RETAIL AFFILIATES
FOR CLARIFICATION AND/OR RECONSIDERATION
OF THE COMMISSION'S SEPTEMBER 3, 2015 FINAL ORDER**

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Date: September 18, 2015

TABLE OF CONTENTS

I. BACKGROUND.....6

II. BASIS FOR CLARIFICATION AND/OR RECONSIDERATION..... 10

 A. EDCs Appear To Currently Give Their Contracted CSPs Interval Meter Data But Do Not Provide EGSs Access To The Same Data 10

 B. The Competition Act Requires EDCs To Provide EGSs Equal Access To Customer Interval Meter Data 13

 C. The *Final Web Portal Order* Does Not Address The EDCs’ Current Inequitable Sharing Of Interval Data To Contracted CSPs But Not EGSs 16

III. REQUEST FOR CLARIFICATION AND/OR RECONSIDERATION 18

IV. CONCLUSION20

**PETITION FOR CLARIFICATION AND/OR RECONSIDERATION OF THE
COMMISSION’S SEPTEMBER 3, 2015 FINAL ORDER**

Pursuant to Section 703(g) of the Public Utility Code,¹ and Section 5.572 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations,² the NRG Retail Affiliates – NRG Home, Green Mountain Energy Company, and Energy Plus Holdings LLC (collectively, “NRG Retail Affiliates”) submit this Petition for Clarification and/or Reconsideration of the Commission’s Final Order entered September 3, 2015 (“*Final Web Portal Order*”). Specifically, the NRG Retail Affiliates request that the Commission direct the electric distribution companies (“EDCs”) to provide electric generation suppliers (“EGSs”) access to billing quality interval usage (“BQIU”) data through the efficient and scalable “Active 10-Day” solution by December 31, 2015.

Granting this relief is critically important. Due to mandates of the legislature requiring EDCs to provide energy efficiency programs and the various implementation orders of the Commission, EDCs today are leveraging BQIU data available through smart meters to offer EDC branded value-added retail products and services while denying EGSs an equal opportunity to offer similar products by not providing EGSs scalable or efficient access to the BQIU data. Because the Commission may not have considered how its determinations in the *Final Web Portal Order* will perpetuate the current unequal playing field and force EGSs to continue to remain at a competitive disadvantage when competing with EDC branded value-added retail products and services, the NRG Retail Affiliates urge the Commission to act decisively and promptly to grant this Petition and direct the relief as requested.

EDCs are required by law to implement smart meters and are in the process of deploying this technology. While actual smart meter deployment is in various stages depending on the

¹ 66 Pa. C.S. §703(g).

² 52 Pa. Code §5.572.

EDC service territory, PECO Energy Company (“PECO”) had substantially completed deployment of smart meters across its entire service territory (approximately 97%) by the end of 2014 and PPL Electric Utilities (“PPL”) has fully deployed smart meters.³ As part of their Energy Efficiency and Conservation (“EE&C”) plans, which have been in operation since June 1, 2010, EDCs are leveraging smart meter data to provide value-added products and services to consumers that only they can provide.

Smart meters provide hourly consumption data of customers (which can be provided as BQIU data which is the subject of this Petition).⁴ This data is critically important to developing individually tailored products and services that leverage this data. For example, both PPL and PECO offer customers the ability to view their 48 hour old and historical daily or hourly energy usage and they can view graphs comparing this data to other metrics. Both EDCs also enable customers to set bill and usage alerts. These products and services are only available by leveraging the BQIU data of the customer. Of crucial significance for the purposes of this Petition is the fact that these products and services are only available today from the EDCs

³ *Petition of PECO Energy Company for approval of its Smart Meter Universal Deployment Plan*, Docket No. M-2009-2123944, Final Order approving settlement entered August 15, 2013. *Petition of PPL Electric Utilities Corporation for Approval of Its Smart Meter Technology Procurement and Installation Plan*, Docket No. M-2014-2430781. Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively “FirstEnergy”) expect to have approximately 98.5% of all smart meters installed by mid-2019 and the remainder to be installed no later than the end of 2022. *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of their Smart Meter Deployment Plans*; Docket Nos. M-2013-2341990, M-2013-2341991, M-2013-2341993 and M-2013-2341994, 2015 Smart Meter Technology Procurement and Installation Plan Annual Progress Report dated August 3, 2015. Duquesne Light Company expects full scale deployment of smart meters by December 31, 2020. Duquesne Light Company – Smart Meter Procurement and Installation Plan, Docket No. M-2009-2123948 dated August 2, 2013.

⁴ While BQIU data is only available with the deployment of smart meters, the Commission should make clear that as the EDCs implement smart meters they are required to provide the BQIU data to EGSs consistent with the directives in this proceeding.

because the EDCs do not provide EGSs any efficient or scalable access to the BQIU data.⁵ As a result, EGSs cannot develop or offer services and products to customers leveraging BQIU data even though such services and products are available in other states where EGSs do have efficient and scalable access. The result of this gives EDCs an unfair competitive advantage and creates an unequal playing field that deprives consumers the benefit of a choice of competitive retail products and services.

Unfortunately, the *Final Web Portal Order* does not move toward resolving this inequity because it only orders the implementation of a single, uniform non-scalable and inefficient process (“By Request” SOAP Web Service) for BQIU data and historical interval usage (“HIU”) data and directs its implementation by November 1, 2016 – more than a year from now. Importantly, that date would only mark the point in time when EGSs are granted access (to the extent EGSs would find any value and even use the “By Request” SOAP Web Service) meaning that at least another year or two would pass as EGSs work on developing and testing the products before any are offered to consumers. During this window of time, EDCs will continue to be able to offer, test and expand their comparable products – exclusively. The fact that the EDCs are using this BQIU data today to develop value-added retail services and products from the EDC gives EDCs a significant competitive and unfair advantage. While the NRG Retail Affiliates and other EGSs are forced to wait just to gain the right to access data from the EDCs, EDCs today are (and have been for several years) exploiting their monopoly positions to offer EDC branded value-added products and services that leverage smart meter technology. This unequal marketplace harms consumers because EGSs are denied the opportunity to develop similar competitive products simply because they do not have access to the same information.

⁵ While PPL currently provides EGSs with access to their customers’ BQIU data through a manual process for one customer account at a time, this access is grossly insufficient for delivering innovative products and services to customers.

By directing EDCs to offer access to BQIU data through the efficient and scalable “Active 10-Day” solution by December 31, 2015, the Commission will be taking decisive action to correct this unequal marketplace and creating an equal opportunity for EGSs to utilize BQIU data to provide customers value-added products and services leveraging BQIU data just as the EDCs are doing today. As the Commission considers this Petition, it is important to remember that Pennsylvania’s EDCs, not unlike utilities across all retail competitive states, are struggling to redefine their traditional business models and are working to expand those business models into competitive markets. When they do so, at the expense of other stakeholders, leveraging their historical monopoly positions to benefit themselves and harm competition and consumers, this Commission must act promptly and decisively.

There is no serious debate that where EGSs have efficient and scalable access to BQIU data they are making significant value-added offers leveraging the data. For example, in Texas, where all suppliers are able to access all of the BQIU data for all of their customers at one time, every single day, NRG Retail affiliate Reliant currently has more than 700,000 customers benefiting from at least one Smart Energy product or service.⁶ Reliant owns a Smart House in downtown Houston where it tests new technologies and new products to determine the most practical in home applications so that it can then develop product and service offerings. Examples of home energy management tools and offerings that Reliant offers in Texas and which are made possible with access to BQIU data include:

- An Account Management tool that allows customers to personally monitor their electricity use, set cost and usage alerts, and compare their energy use to that of their neighbors.

⁶ Access to interval meter data on a near real time basis is still relatively new in Texas (it has been available for only about the last three years) and, because of that, suppliers are still testing concepts and technologies and innovating, and customers are still being educated about what all this data means and how to make it work for them. As the market matures, further innovation is expected to occur as suppliers and customers adjust.

- Cost and Usage alerts - provided via email or text messages – notify customers when they are approaching any cost or usage thresholds they have selected.
- Home Energy Monitors that allow customers to track their usage in real time.
- Weekly Summary Emails that highlight the customer's electricity usage - and approximately what it costs - for the most recent week as compared to the week before it. This information is then used to generate an estimate of the next bill to help the customer better manage his/her electricity budget.⁷
- Pricing Plans that encourage consumers to shift usage and conserve such as:
 - Reliant Keep Your Cash Nights and Weekends – Get a discounted price on electricity used every night after 8:00 p.m., and all weekend long; Enjoy one fixed price during all other times
 - Reliant Truly Free Weekends Plan – No electricity charge from 8 p.m. Friday to 12 a.m. Monday , a low fixed price during the week.
- Payment Plans that help customers budget their energy costs more easily such as Reliant Smart Start. This is a Pre-Pay Plan that allows customers to pay as they go; the plan is very easy to understand – it is very similar to how many mobile phone plans are structured – and it is growing in popularity. The customer decides how much they want to spend.
- Reliant Solar Sell-Back –for people with solar PV systems installed at their home; customers choose to have sell-back savings automatically credited to their monthly Reliant bill for surplus electricity generated and returned to the grid; Interval data allows Reliant to determine the usage profile for the customer so Reliant knows how much electricity to purchase and Reliant purchases supply based on actual demand; it also allows Reliant to offer better pricing to the customer and determine the amount of the credits that can be offered.
- Degrees of Difference - Receive a bill credit of \$0.60 per kWh for using less electricity than normal during high demand hours; Degrees of Difference alerts customers to upcoming periods of high electricity demand so that the customer can reduce usage. During these high

⁷ Letter NRG Retail Affiliates Docket No. M-2009-2092655 dated march 13, 2015 at 3.

demand hours, the customer simply adjusts the thermostat and holds off on high-usage activities like running the dishwasher, washer and dryer, oven, or pool pump. And for making these small changes, the customer can earn Degrees of Difference bill credits.

The NRG Retail Affiliates submit that this Petition meets the standard for granting a petition for clarification and/or reconsideration. Making the changes as requested herein is not only consistent with the requirements of the Electricity Generation Customer Choice and Competition Act (“Competition Act”)⁸ but will allow the Commission to empower EGSs – and, more importantly, their customers – by giving EGSs a fair and equal opportunity to develop and offer competitive value-added products and services that leverage BQIU data for the benefit of their customers, just as the EDCs are doing today.

In support of this Petition, the NRG Retail Affiliates state as follows:

I. BACKGROUND

1. In its December 2012 Order, the Commission directed EDEWG to convene a web portal working group (“WPWG”) to develop standardized solutions for the acquisition of both the historical interval usage (“HIU”) and BQIU data via a secure web portal.⁹ Pursuant to Commission approval, EDEWG was permitted to submit both the HIU and BQIU standards no later than March 1, 2015.¹⁰

2. EGS access to both HIU and BQIU data is important and EGSs need to be able to access all of their customers’ data as efficiently as possible (i.e., all at one time every single day). Today, EGSs can access HIU data through Electronic Data Interchange (“EDI”). EDI is a System-to-System (“StS”) approach which allows an authorized user’s IT systems to

⁸ 66 Pa. C. S. §§2804(6), 2807(f)(3),

⁹ *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655, Final Order entered December 6, 2012.

¹⁰ Secretarial Letter, Docket No. M-2009-2092655, dated April 17, 2014.

communicate directly with the secure web portal system of the EDC. EDI, however, does not provide EGSs with access to BQIU. EGSs today have no scalable access to BQIU.¹¹

3. On February 12, 2015, EDEWG submitted the proposals of the WPWG which defines the “minimal standards” for the “chosen” manual portal framework,¹² i.e. the “Single User – Multiple Requests” (“SU-MR”) framework, while leaving the development of any related items not specifically addressed to the discretion of the individual EDCs.¹³ The EDEWG Report also noted that representatives expressed a long-term preference for EDC implementation of an StS approach.¹⁴ EDEWG members did not reach a consensus on whether or not EDCs should be required to implement such approach and specifically sought direction from the Commission on that question. Notwithstanding the lack of consensus on whether the StS approach should be mandatory, the EDEWG Report does detail two different processes that could be implemented, i.e., (1) the “Active EGS” Rolling 10-Day process,¹⁵ and, (2) “By Request” SOAP Web Service.¹⁶

4. Through the “Active EGS” Rolling 10-Day approach, an EDC would publish BQIU data to a specified FTP site within its secure web portal which EGSs would be able to access. Through the “By Request” SOAP Web Service, access to both HIU and BQIU would be provided but requestors would need to develop and maintain code necessary to connect to the EDC’s meter data management system or similar data storage repository. The “By Request” SOAP Web Service will allow for automation so that an EGS or CSP computer system can

¹¹ PPL currently provides EGSs with access to their customers’ BQIU data through a manual process for one customer account at a time – access that is grossly insufficient for delivering innovative products and services to consumers.

¹² Importantly, not all participants agreed that the SU-MR should be the “chosen” portal framework. *See* EDEWG Report, Appendix C.

¹³ EDEWG Report at 2.

¹⁴ EDEWG Report, Appendix B at 20.

¹⁵ EDEWG Report at 24-26.

¹⁶ EDEWG Report at 27-33

communicate directly to an EDC's computer system. However, unlike the "Active EGS" Rolling 10-Day solution, users will not be able to request or obtain BQIU data for all of their customers at one time – and, therefore, this approach is neither scalable nor efficient.

5. In response to the EDEWG Report, the Commission issued a Tentative Order and sought comments. Upon review of the comments filed by various parties,¹⁷ the Commission entered its *Final Web Portal Order* which: (1) orders those EDCs with smart meter requirements to implement both the SU-MR and StS options; (2) directs that the SU-MR option be implemented by September 3, 2016 (twelve months from entry date of the order);¹⁸ (3) directs EDEWG to reconvene the WPWG in order to develop, but not implement, an StS solution; (4) directs WPWG to provide a recommended StS solution to the Commission, for its review and approval, by March 3, 2016 (six months from entry date of the order); and, (5) directs EDCs to implement the StS option by November 3, 2016 (fourteen months from entry date of the order).¹⁹ Finally, the *Final Web Portal Order* states that EDCs are free to seek an extension of the articulated implementation deadline.²⁰

6. Requests for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under the Public Utility Code to rescind or amend a prior order in whole or in part.²¹ Parties cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them. What the Commission expects in

¹⁷ The NRG Retail Affiliates participated in the EDEWG process, submitted a letter on March 13, 2015 in response to the EDEWG report, and comments on May 26, 2015 in response to the Tentative Order.

¹⁸ While the NRG Retail Affiliates oppose implementation of the SU-MR Solution as wholly insufficient because it is a manual process that requires users to request customer interval usage data one account at a time, this Petition is focused developing a timely and reasonable pathway to permit EGSs to have efficient and scalable access to BQIU data.

¹⁹ *Final Web Portal Order* at 18.

²⁰ *Final Web Portal Order* at 22.

²¹ *Duick v. Pennsylvania Gas and Water Co.*, Docket No. C-R0597001 *et al.*, 56 Pa. P.U.C. 553 (1982).

petitions for reconsideration are new and novel arguments, not previously heard or considerations which appear to have been overlooked by the Commission. Additionally, a Petition for Reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.²²

7. As explained further below, the NRG Retail Affiliates request that the Commission direct the EDCs to provide EGSs access to BQIU data through the efficient and scalable “Active 10-Day” solution by December 31, 2015. The basis for the request is that the *Final Web Portal Order* does not provide any direction regarding the “Active EGS” Rolling 10-Day process which, while not an StS option, could be implemented to provide EGSs timely, efficient and scalable access to BQIU data now. Failing to direct implementation of a process that can enable EGS access to BQIU data today will continue to allow the EDCs to use their monopoly position to discriminate against EGSs by delaying EGS timely and efficient access to their customers’ BQIU data for more than a year. During this time, the EDCs can continue to provide interval meter data to their CSPs pursuant to the EDCs’ EE&C plans to develop and perfect products and services leveraging this data. The NRG Retail Affiliates respectfully submit that the Commission may not have considered how its determinations in the *Final Web Portal Order* will force EGSs to continue to remain at a competitive disadvantage when competing with the EDC’s contracted CSPs that currently offer EDC branded value-added products and services to customers using the BQIU data to which the EDCs give them access today.

²² Id.

II. BASIS FOR CLARIFICATION AND/OR RECONSIDERATION

A. EDCs Appear To Currently Give Their Contracted CSPs Interval Meter Data But Do Not Provide EGSs Access To The Same Data

8. In accordance with Act 129, EDCs are required to implement EE&C programs to reduce energy demand and consumption within the EDCs' service territories.²³ To implement these programs, EDCs are required to contract with CSPs to implement the plan or portions of the plan.²⁴ While CSPs are prohibited from having any direct or indirect ownership, partnership or other affiliated interest with an EDC,²⁵ they act as the agent of the EDC in exclusively providing energy conservation services that the end-user customer sees as coming from the EDC.

9. As required by Act 129, the seven largest Pennsylvania EDCs filed plans by July 1, 2009, detailing how they intend to achieve consumption and peak demand reductions. These programs operated from June 1, 2010 through May 31, 2013. The EDCs are currently in the implementation periods for the second phases of these plans which operate from June 1, 2013 through May 31, 2016.

10. Currently, PPL and PECO offer customers various retail products and services that are only available through leveraging BQIU data. For example, both EDCs enable customers to view their 48 hour old and historical daily or hourly energy use. Their customers are able to view graphs showing their total daily energy use and their hourly energy, and they can compare their hour-by-hour usage to the peak day and average weekday. PECO customers can compare their usage to that of their neighbors and PPL creates a personalized video for customers which compares their usage to past seasonal use and that of other PPL customers. PPL and PECO customers can also set bill and usage alerts. Finally, PPL and PECO customers

²³ 66 Pa. C.S. § 2806.1.

²⁴ 66 Pa. C.S. § 2806.1(b)(i)(E).

²⁵ 66 Pa. C.S. § 2806.1(m).

can download their interval meter data, branded as “Green Button” and receive data that is near real time – approximately 48 hours.²⁶

11. These competitive retail products and services all appear to be available as a result of the EDCs’ contractual relationships with CSPs. PPL contracts with the registered CSP, Aclara.²⁷ According to information provided by Aclara to the Commission, Aclara allows customers to view their hourly interval data and access rate structures, energy usage, and costs.²⁸ Though the nature of the contractual relationship between PPL and Aclara is confidential, the services offered by Aclara and the information that PPL is making available to customers today lead to the reasonable conclusion that PPL is sharing BQIU data with Aclara which is in turn making this information available to customers through PPL’s secure customer portal.²⁹

12. PECO’s EE&C Plan makes clear that customer interval data is shared by PECO with its CSP:

5.2.2 Software Format, Data Exchange Format and Database Structure

The EM&V tracking system will receive data from PECO’s customer Billing and Data Management Systems. PECO’s Customer Information and Marketing System (CIMS) and Chronological Energy Demand Activity Repository (CEDAR) are customer information management systems that are Mainframe/MVS based. The data is stored in a DB2 (relational model database server) system. There are two standard interface methods with CIMS:

» File transfer

○ The CSP must have a file transfer protocol (FTP) server where a CIMS batch process can either send to or receive files from.

○ The CSP must be able to support the following secure file transfer process:

- Secure file transfer protocol (SFTP); or
- FTP with a Procedures Generation Package (PGP) encrypted file process.

○ The files must be standard text files.

» Extensible Mark-up Language (XML) communication.

²⁶ Information gathered from both PPL and PECO’s customer password protected websites.

²⁷ See http://www.puc.state.pa.us/Electric/pdf/Act129/CSP_Registry.pdf.

²⁸ See http://www.puc.state.pa.us/electric/pdf/Act129/SM-Aclara_Presentation071609.pdf

²⁹ On the PPL’s password protected customer account pages, the Daily Energy Use section includes the following copyright notice: Copyright © 2015 Aclara Technologies LLC. All Rights Reserved.

PECO's internal customer systems include: CIMS, CEDAR, and Customer Data Warehouse (CDW).

It is anticipated that the EM&V Tracking System will need to track a number of items that facilitate effective project tracking and regulatory reporting. This data will also support PECO's Quality Assurance process as well as Evaluation, Measurement and Verification requirements.

PECO envisions data being collected at several levels including, but not limited to, the following:

- » Customer
- » Class
- » Building or Premise
- » Program
- » Measure
- » Service Point
- » Interval Meter/Historical Usage
- » Meter Reading Types
- » CSP Invoices

It is expected that this hierarchy would interface with PECO's existing CIMS, and must facilitate future data analyses. PECO will provide an initial population of customer, premise and account data that would be used to qualify customers for programs.³⁰

13. The Green Button PECO information is downloaded from the website:

www.Peco.opower.com. OPower is a registered CSP.³¹ In addition to working with PECO, OPower also has a contract with Duquesne Light Power Company.³² According to its website, OPower "tightly integrates into legacy utility enterprise systems" to provide real-time performance monitoring which can offer customers personalized experiences such as "proactive energy alerts" and operational "insightful bill notifications."³³ The ability of OPower to provide these value added services is necessarily dependent on accessing customer interval meter data which is only available from the EDC.

14. As explained further below, not requiring the EDCs to provide EGSs equal access

³⁰ PECO Program Years 2013-2015 Act 129-Phase II Energy Efficiency and Conservation Plan, Docket No, M-2012-2333992 dated November 1, 2012 at 165 (emphasis added).

³¹ See http://www.puc.state.pa.us/Electric/pdf/Act129/CSP_Registry.pdf

³² See Secretarial Letter dated March 19, 2014 re: Duquesne Light Company Proposed Conservation Service Provider Contract with OPower at Docket No. M-2012-2334399.

³³ Information taken from <http://www.opower.com/>

to this data which they appear to be providing their contracted CSPs is inconsistent with the requirements of the Competition Act and the Commission should take this into consideration and grant the relief requested by this Petition.

B. The Competition Act Requires EDCs To Provide EGSs Equal Access To Customer Interval Meter Data

15. If the Commission's Order is not modified, for over one year (and perhaps longer) EDCs will continue to leverage BQIU data to develop, test and expand retail products and services available only to EDC customers and available only because EDCs are exclusively sharing of this data with their contracted CSPs. Because the EDCs are not providing the same data access to an EGS,³⁴ EGSs cannot develop competitive products leveraging the same data. This outcome violates the Competition Act's requirements that: (1) the EDC offer EGSs the same terms of access that are comparable to the utilities own use of its system; and, (2) the EDC provide both EGSs and CSPs direct meter access and electronic access to customer meter data.

16. As the Commission is well aware, it is the policy of the Commonwealth to foster the development of a robustly competitive retail electricity market in Pennsylvania,³⁵ a policy that this Commission has embraced. A part of this policy of encouraging retail competition is the requirement that EDCs implement smart meter technology which records electricity usage on at least an hourly basis, and then shares that data, with customer consent, with the entire market – including both CSPs and EGSs.³⁶ This is an extremely important requirement. Allowing EDCs to act as gatekeepers for this information or to selectively and exclusively provide it to entities

³⁴ PPL currently provides EGSs with access to their customers' BQIU data through a manual process for one customer account at a time – access that is grossly insufficient for delivering innovative products and services to consumers.

³⁵ 66 Pa. C.S. § 2802(5); 66 Pa. C.S. § 2806(a).

³⁶ 66 Pa. C.S. § 2807(f)(1), (3) and (g). Currently, smart meters are 100% deployed in the service territory of PPL Electric Utilities, and they are more than 97% deployed in the service territory of PECO energy company. Both Duquesne Light Company and the First Energy EDCs are still several years away from smart meter deployment.

that develop retail products for the EDCs while not providing it to EGSs harms consumers and undermines the competitive retail market. Permitting EDCs to exploit this data to advantage their own retail products and services creates a barrier to competition by giving the EDCs the ability to offer an EDC branded product while at the same time denying the same opportunity to the EGSs and their customers. The end result harms consumers who are denied a choice of products and services. As discussed further below, granting this Petition and making the requested changes would advance the General Assembly's clear intent to assure competitively neutral access to key customer data by permitting EGSs to have more timely, efficient and scalable access to customer interval meter data.

17. Additionally, the Competition Act requires that EDCs provide nondiscriminatory access to EGSs. Specifically, the Competition Act requires that customers be allowed "to choose among electric generation suppliers in a competitive generation market through direct access"³⁷ and defines "Direct Access" as:

The right of electric generation suppliers and end-use customers to utilize and interconnect with the electric transmission and distribution system on a nondiscriminatory basis at rates, terms and conditions of service comparable to the transmission and distribution companies' own use of the system to transport electricity from any generator of electricity to any end-use customer.³⁸

Likewise, the Competition Act requires that:

A public utility that owns or operates jurisdictional transmission and distribution facilities shall provide transmission and distribution service to all retail electric customers in their service territory and to electric cooperative corporations and electric generation suppliers, affiliated or nonaffiliated, on rates, terms of access and conditions that are comparable to the utilities own use of its system.³⁹

³⁷ 66 Pa. C.S. § 2804(2).

³⁸ 66 Pa. C.S. § 2803(emphasis added).

³⁹ 66 Pa. C.S. § 2804(6)(emphasis added).

18. The lack of equal access to EGSs of customer meter data fosters the misimpression that default service is “better” than competitive service because of the ability of the EDCs to develop (with the assistance of their CSPs) EDC branded value added products and services for retail customers. As the Commission has rightly concluded in other contexts, endorsement of default service over competitive EGS supply products “would not be commensurate with the intent of the Competition Act and [the Commission’s] duty to promote and assist in the development of the retail electric supply market.”⁴⁰

19. While the NRG Retail Affiliates acknowledge that the Commission has expressed support for EDC energy conservation programs, the Commission also specifically encouraged “EGSs to provide their own energy efficiency offerings in order to increase the diversity of products and services within the competitive market and to aid in the reduction of energy consumption across the state.”⁴¹ EGSs want to be able to do this and are making such offerings outside of Pennsylvania where they have access to BQIU data.⁴² Without the clarification as requested by this Petition, there is no likelihood that this will happen for – at the very least – fourteen months but more likely longer than that (assuming the ultimate solution which provides BQIU access is one that is efficient and scalable).

20. The critical first step to bringing these types of programs and others yet to be developed to Pennsylvania consumers is to require that EDCs provide EGSs access to all of their customers’ BQIU data through the efficient and scalable “Active 10-Day” solution by December

⁴⁰ See 66 Pa. C.S. § 2802. *Petition of Duquesne Light Company For A Waiver Of The Three Business Day Switching Requirements Under 52 Pa. Code § 57.174*, Docket No. P-2014-2448863, Order entered December 4, 2014 at 11.

⁴¹ *Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952, Final Order entered February 15, 2013 at 82.

⁴² Letter NRG Retail Affiliates Docket No. M-2009-2092655 dated March 13, 2015 at 3. In addition to needing access to BQIU data, EGSs also need to have their load settled at PJM based on the interval data and the Commission should require the EDCs to do so.

31, 2015. By granting this Petition and making the changes requested herein, the Commission will be moving the competitive retail market forward for the benefit of Pennsylvania's consumers.

C. The *Final Web Portal Order* Does Not Address The EDCs' Current Inequitable Sharing Of Interval Data To Contracted CSPs But Not EGSs

21. The *Final Web Portal Order* directs the implementation of an StS process requiring that, within fourteen months of entry date, the StS "functionality outlined in the Framework."⁴³ The only StS process outlined in the EDEWG Report is the "By Request" SOAP Web Service as the "Active EGS" Rolling 10-Day process uses a "provide-and-park" approach.⁴⁴ Because of this, the *Final Web Portal Order* is effectively directing implementation of the "By Request" SOAP Web Service.

22. Implementation of the "By Request" SOAP Web Service will not address the current inequitable sharing of interval data by the EDCs to their contracted CSPs because it is not scalable nor efficient since users will not be able to request or obtain BQIU data for all of their customers at one time. Although the EDEWG Report does recommend that the EDCs pursue the "Active EGS" Rolling 10-Day proposal "either before or during implementation of" the "By Request" Soap Web Service,⁴⁵ the *Final Web Portal Order* says nothing about this recommendation and, because of this, appears to be directing implementation of the "By Request" SOAP Web Service. Without further clarification, the issue of providing EGSs efficient and scalable access to BQIU data in the near term will not be addressed and consumers will be harmed as this lack of access means that EGSs cannot even begin the process of developing competitive products that leverage BQIU data. Such a result unreasonably

⁴³ *Final Web Portal Order* at 2.

⁴⁴ EDEWG Report at 24.

⁴⁵ EDEWG Report at 25.

exacerbates the current inequitable sharing of customer interval meter data allowing the EDCs to continue to provide their contracted CSPs the information while EGSs are denied the same access. As discussed above such a result is inconsistent with the Competition Act.

23. Further compounding the lack of guidance in the *Final Web Portal Order* regarding the need for a process to make BQIU data available, is the newly extended implementation deadline for an StS solution. The Commission directed that EDEWG complete its process by March 3, 2016 (six months from entry date) and that EDCs must implement the StS option by November 3, 2016 (fourteen months from entry date).⁴⁶ The Commission also stated that “EDCs are free to seek an extension of the implementation deadline.”⁴⁷ The effect of the timing framework established in the *Final Web Portal Order* is to unreasonably and unnecessarily delay the ability of EGSs to gain access to BQIU data for at least fourteen months with no real hope of pursuing the non-STs “Active EGS” Rolling 10-Day proposal in the interim.

24. Importantly, even if implementation were to occur on November 3, 2016 as contemplated by the *Final Web Portal Order*, all that means is that the EDCs will finally give EGSs access to the data at the point in time. As previously noted in the Comments of the NRG Retail Affiliates, once EGSs have access to the BQIU data, they will need time (approximately an additional twelve to eighteen months) to bring new products and services to the market because they will need to:

(1) become familiar with and analyze the data, (2) design and program the systems needed to capture, store, analyze, and push that data to customers in real-time, and (3) develop, test, market and deliver new products that leverage that data to customers. The longer retail suppliers must wait to

⁴⁶ *Final Web Portal Order* at 18.

⁴⁷ *Final Web Portal Order* at 22.

gain access to this data, the longer it will be before the innovative solutions that the Commission anticipates will be available to customers.⁴⁸

25. Moreover, for all the reasons discussed previously, the “By Request” SOAP Web Service is not an efficient or scalable process for providing access to BQIU. As such, there is a real likelihood that even with implementation of the “By Request” SOAP Web Service process, it may not be used. This further supports the need for the Commission to grant the relief requested here and focus on providing EGSs with timely, efficient and scalable access to BQIU data.

III. REQUEST FOR CLARIFICATION AND/OR RECONSIDERATION

26. As discussed above, the *Final Web Portal Order* does not specifically address the “Active EGS” Rolling 10-Day Solution and, in fact, appears to reject any further discussion or implementation of that solution since it is not an StS process. The practical effect of this will be to continue to exacerbate the current inequitable situation whereby EDCs appear to provide BQIU data to their contracted CSPs but do not provide the same information to EGSs. While ideally the Commission should require EDCs to cease and desist from sharing the BQIU data with their contracted CSPs given all the inequities and unfairness discussed above until the information is equally available to EGSs, the NRG Retail Affiliates recognize that such result would remove a current customer benefit. Taking this into consideration, the NRG Retail Affiliates request that the Commission clarify the *Final Web Portal Order* to direct the EDCs to provide EGSs access to BQIU data through the efficient and scalable “Active 10-Day” solution by December 31, 2015. Because CSPs already have access to the BQIU data through their contractual relationships with the EDCs, the NRG Retail Affiliates urge the Commission to focus

⁴⁸ Comments of NRG Retail Affiliates April 23, 2015 Tentative Order, Docket No. M-2009-2092655, dated May 26, 2015 at 7.

this proceeding on the most efficient, scalable and timely manner to provide EGSs access to the data.

EGSs must be able to access all of their customers' BQIU data with a single request every day in order to develop and offer the full array of innovative products and services that leverage that data. Since EGSs have access to HIU through the current StS EDI process, they do not have a need for an additional process for access to HIU and, rather than unnecessarily complicate this process, the Commission should direct the EDCs to provide EGSs access to BQIU data through the efficient and scalable "Active 10-Day" solution by December 31, 2015.

27. Though not an StS process, the "Active EGS" Rolling 10-Day proposal accomplishes the goals discussed herein and the NRG Retail Affiliates continue to support its implementation.⁴⁹ Advantages of the "Active EGS" Rolling 10-Day proposal are that: (1) it could be made immediately available to EGSs through existing secure supplier portals; (2) it only requires an EDC to publish files to a specified FTP site which EGSs can then access; and, (3) it is very similar to the interval usage data access methods employed in Texas and by the PHI utilities (PEPCO and Delmarva Power) in Maryland, Delaware and the District of Columbia.⁵⁰

28. In contrast, the only StS process detailed in the EDEWG Report referred to as the "By Request" SOAP Web Service would provide both HIU and BQIU data but only allows users to request the data for up to ten accounts at a time (with each account requiring manual entry into the data request by the EGS) and the entire system could be impaired if high request volumes are received by the EDC.⁵¹ Since this process does not use existing supplier portals, it would need to be developed. A comparison of the two processes makes clear that the "Active EGS" Rolling

⁴⁹ EDEWG Report at 24-25. To the extent there are concerns that CSPs cannot access data through this solution, such concerns are moot given their ability to access the data directly from the EDCs. At this point, focusing on EGS access is more pressing as EGSs have no scalable or efficient access today.

⁵⁰ Letter of NRG Retail Affiliates, Docket No. M-2009-2092655 dated March 13, 2015 at 5-6.

⁵¹ EDEWG Report at 27.

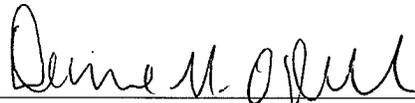
10-Day proposal is more ideally situated to meet the goal of developing the most simple, effective and scalable solution that will provide EGSs with BQIU data in the near term.

29. For all the reasons discussed above, the NRG Retail Affiliates urge the Commission to act decisively and promptly to require that EDCs offer EGSs access to BQIU data through an efficient and scalable solution by December 31, 2015. This can be reasonably accomplished through implementation of the “Active EGS” Rolling 10-Day solution which has already been discussed at length within EDEWG. This, in combination with the fact that the EDCs already appear to have some process in place to provide this data to their contracted CSPs, means that there does not appear to be any reasonable reason to delay implementation of this process.

IV. CONCLUSION

In conclusion, the NRG Retail Affiliates respectfully request that the Commission direct the EDCs to provide EGSs access to BQIU data through the efficient and scalable “Active 10-Day” solution by December 31, 2015.

WHEREFORE, NRG retail – NRG Home, Green Mountain Energy Company, and Energy Plus Holdings LLC respectfully request that the Commission grant this Petition for Clarification and/or Reconsideration and issue an order consistent with the recommendations set forth herein.



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Date: September 18, 2015

VERIFICATION

I, Leah Gibbons, hereby state that I am Director Regulatory Affairs of NRG Energy, Inc. and am authorized to make this verification on its behalf, and that the facts above set forth in the attached Petition are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: September 18, 2016

A handwritten signature in black ink that reads "Leah Gibbons". The signature is written in a cursive style with a horizontal line underneath it.

Leah Gibbons, Director Regulatory Affairs
NRG Energy, Inc.