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VIA eFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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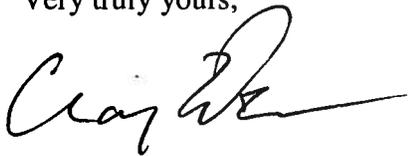
**Re: Submission of the Electronic Data Exchange Working Group's Web
Portal Working Group's Solution Framework for Historical Interval
Usage and Billing Quality Interval Usage,
Docket No. M-2009-2092655**

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced proceeding is the **Answer of PECO Energy Company to the Petition of the NRG Retail Affiliates for Clarification and/or Reconsideration of the Commission's September 3, 2015 Final Order ("Answer")**.

As evidenced by the enclosed Certificate of Service, a copy of the Answer has been served on all listed parties.

Very truly yours,



W. Craig Williams

Enclosures

cc: Per the Certificate of Service (w/encls.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Submission of the Electronic Data :
Exchange Working Group’s Web Portal : **Docket No. M-2009-2092655**
Working Group’s Solution Framework :
for Historical Interval Usage and Billing :
Quality Interval Usage :

**ANSWER OF PECO ENERGY COMPANY TO
NRG RETAIL AFFILIATES’ PETITION FOR RECONSIDERATION
AND/OR CLARIFICATION
OF THE COMMISSION’S SEPTEMBER 3, 2015 FINAL ORDER**

I. INTRODUCTION

On September 3, 2015, the Pennsylvania Public Utility Commission (the “Commission”) entered its final order in the above-captioned proceeding (the “Final Order”). In the Final Order, the Commission addressed the implementation of standardized solutions for the acquisition of historical interval usage (“HIU”) and billing quality interval usage (“BQIU”) data. In particular, the Commission directed electric distribution companies (“EDCs”) with smart meters to: (1) implement the Single User – Multiple Request (“SU-MR”) option outlined in the Pennsylvania Web Portal Working Group (“WPWG”) Solution Framework (the “Solution Framework”)¹ within twelve months of the Final Order; (2) implement a System-to-System (“StS) functionality, outlined in the Framework, within fourteen months of the Final Order; and (3) participate in further WPWG efforts to develop standards for a uniform StS functionality and submit them for Commission approval within six months of the Final Order.

¹ See *Pennsylvania Web Portal Working Group Solution Framework*, submitted by EDEWG, Docket No. M-2009-2092655, received February 23, 2015.

Pursuant to 52 Pa. Code § 5.572(e), PECO submits this Answer to the Petition for Clarification and/or Reconsideration (the “Petition”) filed by NRG Home, Green Mountain Energy Company, and Energy Plus Holdings LLC (collectively, “NRG Retail Affiliates”). In its Petition, NRG Retail Affiliates request that the Commission require EDCs to provide electric generation suppliers (“EGSs”) with access to BQIU data through an “Active EGS Rolling 10-Day solution” by December 31, 2015 (the “Rolling Option”). As explained in this Answer, both the specific functionality of the Rolling Option and the importance of EGS access to EDC customer billing data raised by NRG Retail Affiliates were duly considered by the Commission and, therefore, the Petition fails to meet the Commission’s threshold legal requirements for reconsideration.

PECO fully supports standards to enable a customer to share usage data with EGSs and other third parties who have obtained the appropriate customer consent. Those solutions should be developed through the process and consistent with the timeline set forth in the Final Order by the Commission after its review of extensive comments by EDCs, EGSs (including NRG Retail Affiliates), and other stakeholders. Because NRG Retail Affiliates’ proposal and concerns have already been presented and fully considered by the Commission, the Petition should be denied.

II. ANSWER TO THE PETITION

Under the Commission’s well-established standard for petitions for reconsideration set forth in *Philip Duick et al. v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553 (1982), the Commission expects a petition for reconsideration “to set forth new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.” *Id.*, p. 559. A proper petition for reconsideration may also plead “newly discovered evidence” or allege “errors of law, or a change in circumstances.” *Pennsylvania Pub.*

Util. Comm'n v. Jackson Sewer Corp., Docket No. R-00005882, 2001 WL 36260381, Pa. P.U.C. (Nov. 9, 2001), p. 3.

The NRG Retail Affiliates' Petition does not meet these requirements. At the center of the Petition is NRG Retail Affiliates' request that the Commission direct Pennsylvania EDCs to implement the Rolling Option, under which EDCs would be required to create yet another mechanism for provision of billing data, in addition to the uniform StS mechanism (for which the Commission has charged WPWG to develop standards in six months) and the SU-MR option. But this argument is clearly not "new or novel"; the Commission *expressly acknowledges* NRG Retail Affiliates' request for the Rolling Option and its purported benefits in the Final Order, as well as the concerns of the Electronic Data Exchange Working Group ("EDEWG") leadership regarding the Rolling Option. *See* Final Order, p. 15 (recognizing NRG Retail Affiliates "specifically request" the Rolling Option and acknowledging their assertion that it "should be easier and cheaper"); Final Order, p. 9 (acknowledging the EDEWG leadership concern that the Rolling Option does not provide for historical usage data).

There is also no question that the Commission somehow "overlooked" the actual details of the Rolling Option or the views of NRG Retail Affiliates. The Rolling Option was well-documented in the Solution Framework developed with EGS participation and reviewed by the Commission in the Tentative Order in this proceeding,² and the Commission discussed both the Rolling Option and NRG Retail Affiliates' strong support for that option extensively in the

² Tentative Order, *Submission of the Electronic Data Exchange Working Group's Web Portal Working Group's Solution Framework for Historical Interval Usage and Billing Quality Interval Usage*, Docket No. M-2009-2092655 (Order entered Apr. 23, 2015) ("Tentative Order").

Tentative Order.³ NRG Retail Associates also submitted their views and analysis of the Rolling Option in a letter to the Commission filed before the issuance of the Tentative Order.⁴

Recognizing that it cannot assert the novelty of its argument or any other proper basis for reconsideration, NRG Retail Affiliates now make two additional arguments to attempt to convince the Commission to consider the Rolling Option yet again. First, they assert that the Final Order is flawed because it “does not provide any direction” regarding the Rolling Option. Petition, p. 9. But failing to provide “direction” in response to the arguments of any party is not a requirement for orders of the Commission, nor a basis for reconsideration: as the Commission has repeatedly underscored, “[i]t is well settled that [the Commission is] not required to consider expressly or at length each contention or argument raised by the parties.”⁵ Contrary to the apparent belief of NRG Retail Affiliates in its Petition, the Commission is clearly aware of the time-sensitive need to implement BQIU and HIU functionality for EGSs to facilitate the offering of new programs by EGSs.⁶ After discussing the Rolling Option in the Tentative Order⁴ and in the Final Order, the Commission was under no obligation to further address the Rolling Option in directing EDCs to implement StS and SU-MR functionality and mandating an expedited

³ Tentative Order, pp. 3-7.

⁴ See March 13, 2015 Letter to Rosemary A. Chiavetta from Leah Gibbons, Docket No. M-2009-2092655 (“March 2015 Letter”). Notably, in their comments to the Tentative Order, NRG Retail Affiliates explicitly asked that the Commission require that EDCs implement the StS solution using the Rolling Option, but they now assert that the Rolling Option is *not* an StS solution. Compare NRG Retail Affiliate Comments, pp. 5 & 10 (describing the Rolling Option as an StS solution and requesting its adoption) and Petition, p. 9 (stating that the Rolling Option is “not an StS option”). NRG Retail Associates’ apparent change in their views does not provide grounds for reconsideration by the Commission, nor any basis to require EDCs to now implement both the StS solution and the Rolling Option.

⁵ See, e.g., *Petition of PECO Energy Co. for Approval of its Default Serv. Program for the period from June 1, 2015 through May 31, 2017*, Docket No. P-2014-2409362 (Order entered Feb. 26, 2015) (citing *Consol. Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993) and *Univ. of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984)).

⁶ Final Order, p. 18 (stating that the Commission “maintains that the need for the web portals is of a time-sensitive nature” but recognizing “the value that the WPWG could have upon the web portals and the SU-MR option”).

stakeholder standards process (in which NRG Retail Affiliates will be able to continue to participate).

Second, NRG Retail Affiliates argue that the Commission “may not have considered” how the Rolling Option is necessary to address a purported “unfair competitive advantage” for EDCs from their use of billing data in Act 129 programs approved by the Commission. As with their earlier arguments in the Petition, however, NRG Retail Affiliates fail to acknowledge that they had already presented similar arguments to the Commission. In their Comments to the Tentative Order, NRG Retail Associates argued that “EGSs are the entities best suited to deliver the value to the value-added products and services to consumers that are enabled with the deployment of smart meter technology,” and recommended to the Commission that “EDCs should not be **encouraged or permitted** to develop and offer value-added products and services that leverage smart meter technology.”⁷

Even if the belated efforts of NRG Retail Associates to link a purported EDC “competitive advantage” to Commission-approved Act 129 programs can be considered “new and novel” for purposes of reconsideration, the Commission should reject these arguments as fundamentally flawed as a matter of law. PECO does not offer Act 129 programs to “compete” with EGSs; PECO is *required* by Act 129 to achieve increasing mandated targets for reduction of customer usage, without any profit and at the risk of substantial penalties if those targets are not achieved. Each Act 129 program is determined by the Commission to be in the public interest and consistent with Act 129 requirements; to the extent that PECO provides billing data

⁷ NRG Retail Affiliate Comments, p. 4 n.3 (emphasis added). Similarly, NRG Retail Affiliates’ reference to programs in Texas using near-real time billing data was already highlighted in their March 2015 Letter – before the issuance of the Tentative Order. *See* March 2015 Letter, p. 3. And their repeated request that the Commission require EDCs to settle load at PJM based on billing data instead of load profiles with reconciliation – a request which they do not address with any specificity, including the responsibility for associated costs and necessary changes to PJM systems and tariffs – was also raised for Commission consideration in their earlier comments. *Compare* Petition, p. 15 n.42 & NRG Retail Affiliate Comments, p. 5. n.7.

to conservation service providers (“CSPs”) (which, as NRG Retail Affiliates correctly note, must have no affiliate relationship with PECO), such billing data is used *only* for the provision of Commission-approved Act 129 programs.⁸ NRG Retail Affiliates’ contention that Act 129 programs which present billing data to customers (which can, of course, include data on customer usage of EGS-supplied generation) somehow enhance the EDC “brand” to the actual disadvantage of EGSs and the “benefit” of EDCs⁹ is entirely speculative and unsupported in the Petition.

The various provisions of the Public Utility Code which NRG Retail Affiliates invoke to suggest that the Competition Act is violated through the provision of billing data to CSPs to implement Act 129 programs are similarly inapposite. While NRG Retail Affiliates properly note that the Competition Act provides for non-discriminatory access to an EDC’s transmission and distribution system, nothing in Act 129 or other provisions of the Public Utility Code suggest that this obligation means that that each EDC must also revamp its systems to ensure that EGSs are able to offer every EDC-specific Act 129 program to their customers at the same time as the Commission approves an EDC’s Act 129 plan. In short, the Commission is entirely within its authority in the Final Order to reject the Rolling Option in favor of uniform StS and SU-MR functionality, with a clear timeline for implementation.

⁸ For example, the excerpt from PECO’s Act 129 program discussing billing data cited by NRG Retail Affiliates relates to data provided to the CSP that evaluates PECO’s Act 129 program performance to inform the Commission whether or not PECO achieves its energy efficiency targets. *See* Petition, pp. 11-12 (excerpting portion of PECO Act 129 plan discussing data for evaluation, measurement and verification).

The NRG Retail Affiliates’ reference to PECO’s implementation of its “Green Button” program with OPower (Petition, p. 12) is similarly misplaced – the Commission is well aware of the provision of billing data to customers through this program, and determined in the Final Order that the “Green Button” program would not meet the needs of the Commission and EDEWG. *See* Final Order, pp. 7-8 (discussing “Green Button” and noting that PECO has stated in its comments to the Tentative Order that some Green Button functionality can be integrated into the StS solution); *see also* Joint Statement of Chairman Robert F. Powelson and Commissioner Pamela A. Witmer, *Re: Green Button Initiative*, Docket No. M-20112-2289411 (April 12, 2012) (noting PECO commitment to “green button” program for easy-to-use customer portal for access to different types of usage information).

⁹ *See, e.g.*, Petition, pp. 3-4.

WHEREFORE, for the foregoing reasons, the Commission should deny the Petition for Reconsideration and/or Clarification filed by NRG Retail Affiliates.

Respectfully submitted,



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Counsel for PECO Energy Company

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CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of **Answer of PECO Energy Company to the Petition of the NRG Retail Affiliates for Clarification and/or Reconsideration of the Commission's September 3, 2015 Final Order** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

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