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March 31, 2009

**VIA FEDERAL EXPRESS**

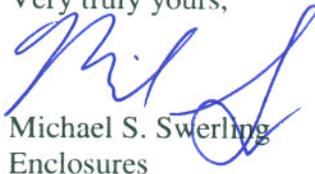
James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: **Retail Markets Working Group, Docket No. M-00072009**

Dear Secretary McNulty:

Enclosed are an original and ten (10) copies of the **Reply Comments of PECO Energy Company** to be filed in the above-captioned matter. An additional copy of this letter is also enclosed to be date-stamped and returned to us.

Very truly yours,



Michael S. Swerling  
Enclosures

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ELECTRIC GENERATION SUPPLIERS** :  
**OFFERING BILLING SERVICES** :  
**AFFECTING ELECTRIC RETAIL** :  
**CHOICE; RETAIL MARKETS** : **DOCKET NO. M-00072009**  
**WORKING GROUP** :  
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**REPLY COMMENTS OF PECO ENERGY COMPANY**

On February 5, 2009, the Pennsylvania Public Utility Commission (the “Commission”) issued a Secretarial Letter (the “Letter”) noting its review of situations where customers had requested their electric distribution company (“EDC”) change their billing address to that of an electric generation supplier (“EGS”). *See Electric Generation Suppliers Offering Billing Services Affecting Electric Retail Choice*, PUC Docket No. M-00011467.

In its Letter, the Commission requested that participants in the Commission’s Retail Markets Working Group (“Working Group”) report whether standard requirements governing the release of customer information are still needed and how relevant issues have changed.

On March 13, 2009, Strategic Communications, LLC (on behalf of Interstate Gas Supply, Inc, Gateway Energy Services Corporation and Agway Energy Sources, LLC) and The National Energy Marketers Association (“NEM”) both filed Comments to the Letter.<sup>1</sup> PECO filed its Comments on March 16, 2009. PECO presents the following Reply Comments to the Comments filed by Strategic Communications and NEM (collectively, “the Marketers”).

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<sup>1</sup> Allegheny Energy also filed comments on March 17, 2009, wherein it supported that EGSs must inform customers about the effects of using the EGS’s billing address. PECO agrees Allegheny’s comments.

### Bill And Rate Ready Billing Are Outside The Scope Of The Secretarial Letter

The Marketers argued that the situation where an EDC customer replaces his or her mailing address with that of an EGS is no longer relevant. Strategic Communications claimed that EDC consolidated billing for residential and small commercial customers eliminated the Commission's concerns with EGS mailing addresses. NEM also found that rate ready and bill ready billing, as encompassed in EDC consolidated billing, eliminated roadblocks to EDC communications with customers.

PECO agrees that current EDC consolidated billing has eliminated some concerns with EGS billing addresses. PECO disagrees that the Commission's February 5, 2009 Letter was aimed at eliciting comments about EDC consolidated billing options (bill or rate ready billing). PECO believes that the Commission previously provided an opportunity for discussion around bill and rate ready billing in an earlier Secretarial Letter, which issued on April 15, 2008. Therefore, comments to bill and rate ready billing should have been limited to the April 15, 2008 Secretarial Letter.

### Customer Use Of EGS Billing Addresses Remains Relevant

Moreover, PECO disagrees that either rate ready or bill ready billing would eliminate roadblocks to EDC communications with customers. Both billing options require that the EGS billing address be substituted for the customer's because the EGS would be taking control of the billing function. EDCs would need to submit information, including notices and other communications, to the EGS on the customer's behalf. The EGS would be responsible for passing this information on to the customer. This situation therefore creates a roadblock

affecting direct communication between the EDC and the customer. For that reason, standard Commission requirements are needed to protect the release of customer information.

The Celeren<sup>2</sup> situation that PECO previously commented on further heightens the need for Commission discussion and analysis because it demonstrated problems that can happen when a third party uses its address for customer billing. In the Celeren example, EDC notices, bills and other communications allegedly failed to reach the customers. Such problems could be avoided with proper Commission oversight.

#### Release of Customer Information Should Be Standardized

PECO reiterates its position that the situation where an EDC customer may adopt an EGS's billing address is relevant and does require standard requirements for the release of customer information. First and foremost, an EGS, "Bill Presenter" or a "Marketer" offering billing services should be seen as the customer's legal agent for all billing and notice transactions from the EDC. The EGS must have a duty to pass on all information received from the EDC to the customer. If the EGS fails to fulfill this obligation, any dispute should only exist between the customer and the EGS. The EDC should not be involved in the dispute or have any responsibility for an EGS breach of its obligations to a customer.

If an EGS offers billing services to a customer, those services must comply with Commission regulations applicable to billing entities. Such regulations include dispute resolution procedures as well as bill format requirements. *See generally* 52 Pa. Code § 56.140 (dispute

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<sup>2</sup> See the Supplemental Comments of PECO Energy regarding the Electric Generation Suppliers Offering Billing Services Affecting Electric Retail Choice; *Retail Markets Working Group*, Docket Nos. M-00011467 and M-00072009, filed on March 16, 2009. Also see the Celeren cases filed at the following dockets: *Philadelphia HGI Associates, LP v. PECO*, Docket No. C-2008-2069070; *Digital 833 Chestnut, LLC v. PECO*, Docket No. C-2008-2076235; *Crescent Hotel-Plymouth Meeting, LP v. PECO*, Docket No. C-2008-2068258; and *Rama Construction, Inc t/a Ramada Inn International Airport v. PECO*, Docket No. C-2008-2058320.

resolution procedures for residential customers); *see also* 52 Pa. Code § 54.4 (specifying bill format for residential and small business customers).

PECO submits that an EGS should not be able to circumvent its existing obligations under current Commission rules by stating it is merely a Bill Presenter or a Marketer. Any EGS providing billing services should remain subject to the existing Commission rules and applicable EDC tariffs. Any EGS that offers such billing services should also be held to the terms and conditions of the various EDC restructuring orders and settlement agreements. Further, if third-party entities offer billing services, those entities should obtain a Commission license and secure the appropriate bond before offering such services in Pennsylvania.

#### POR Programs Are Outside The Scope Of The Secretarial Letter

The Marketers further commented that POR programs foster competition and keep supplier programmatic costs down. PECO disagrees that the Commission's February 5, 2009 Letter aimed to elicit comments about POR programs. POR issues were also previously raised for comment in the Commission's April 15, 2008 Secretarial Letter. The Marketers had an opportunity to comment on POR programs in that proceeding. This proceeding is limited to the release of customer information when customers choose to adopt their supplier's billing address.

POR programs are currently being addressed in other dockets such as *Establishment of Interim Guidelines for Purchase of Receivables (POR) Programs*, Docket Nos. M-2008-2068982, I-00040103F0002. The Joint Petition For Settlement reached in the Petition Of PECO Energy Company For Expedited Approval Of Its Default Service Program And Rate Mitigation Plan, at Docket P-2008-2062739, filed on March 10, 2009, is just one recent example of POR consensus options for the Working Group to discuss.

Conclusion

PECO Energy respectfully requests that the Commission, through its Working Group, investigate and establish standard requirements governing the release of customer information when a supplier or third party is given billing control.

Respectfully submitted,



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March 31, 2009