

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Interim Guidelines Regarding Standards )  
For Changing a Customer’s Electricity )     **Docket No. M-2011-2270442**  
Generation Supplier )**

**Comments of the  
National Energy Marketers Association**

The National Energy Marketers Association (NEM)<sup>1</sup> hereby submits comments pursuant to the November 10, 2011, Tentative Order issued in the above-referenced proceeding. The Tentative Order sets forth interim guidelines on standards for changing a customer’s electricity generation supplier. The proposals are intended to facilitate the more timely transfer of the switch of a customer’s account from the utility to a competitive supplier or between competitive suppliers. The main elements of the proposal are to: 1) eliminate the ten-day confirmation waiting period within which the utility holds a customer enrollment request; 2) adoption of certain measures by electric generation suppliers (EGSs) regarding the communication to customers of the start date of service and to promote the timely submission of enrollment transactions to the utilities; and 3) provision of consumer education by EGSs, utilities and the Commission on switching timeframes. The Commission has also requested comment on the application of the standards to the natural gas industry.

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<sup>1</sup> The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM’s membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

This document reflects the views of the National Energy Marketers Association and does not necessarily reflect the views of any specific member of the Association.

NEM supports the proposed interim guidelines, subject to the clarifications suggested herein, as a reasonable step to achieving customer switching on a timelier basis. NEM recognizes that the interim guidelines are a function of currently available utility metering technology and supports the incorporation of improved, real time switching procedures as smart meters become more widely available. NEM appreciates the continued efforts of the Commission and Staff to enhance the consumer energy shopping experience and further develop the competitive retail market in the Commonwealth.

### **I. Elimination of the Ten Day Confirmation Waiting Period**

The main element of the proposed interim guidelines that will affect a more timely switch of customers' accounts is the elimination of the ten day waiting period within which the utility holds an enrollment request during which time the customer can dispute whether consent was given to the transfer to the EGS. Coinciding with this proposal would be the elimination of the confirmation letter sent by the utility to the customer to confirm the transfer to the EGS. In making this proposal the Commission reasoned that, "delaying the switch of suppliers for all consumers in the name of stopping possible slamming for a few consumers is not sensible; the costs of this practice appear to outweigh the benefits." (Tentative Order at 12). NEM agrees. Moreover, the ten day waiting period, in and of itself, is not a cure for the practice of slamming per se. Indeed, any potential slamming incident will have taken place regardless of a ten day waiting period because the supplier did not properly effectuate a customer switch prior to that point. As such, NEM submits that the ten day waiting period cannot be viewed as the means of preventing slamming. The Commission's regulations and penalty provisions provide the appropriate safeguard against slamming. The ten day waiting period has served to unnecessarily delay the customer switching process, creating consumer confusion and dissatisfaction at the

very early stages of exposure to energy shopping. For these reasons, NEM supports the elimination of the ten day confirmation waiting period and elimination of the associated utility confirmation letter.

In place of the utility confirmation letter, the Commission proposes that the utility send an account transfer letter to inform a customer about the transfer of the account to an EGS. (Proposed Guideline L.1). The letter is to be sent by the end of the next business day after receiving an account transfer notice from an EGS. (Id.) A sample letter for the utilities' use was attached to the Tentative Order for comment. Overall, NEM believes that the letter appropriately accomplishes the goal of providing a consumer with notice that a switch has occurred, and does so in a competitively neutral and non-threatening manner. NEM has made a few suggested wording changes to the sample account transfer letter for the purpose of phrasing the letter in a more positive, welcoming tone for new choice customers as set forth in Appendix A to these comments. NEM also requests that the Commission clarify that the data field included in the letter for EGS CONTACT INFORMATION should be required to include the EGS's phone number and not only set forth the EGS's address. This will facilitate consumer contact to the EGS to remedy any potential perceived problem.

## **II. EGS Role and Responsibilities in an Accelerated Switching Process**

In tandem with the elimination of the ten day confirmation waiting period, the Commission has proposed a number of measures to be undertaken by EGSs. There is no question that EGSs should have the responsibility to accurately communicate the switching process to consumers. In fact, it is in their best interest to do so, to set appropriate expectations as to when service can be expected to commence. However, NEM is concerned that certain elements of the interim

guidelines may not be operationally practicable or feasible and as proposed would seriously hamper EGSs ability to effectively market to consumers. NEM further submits that certain elements of the proposal may be more appropriate upon the implementation of utility smart meters. NEM believes that consumers would be well served by EGSs providing a generalized explanation in their marketing communications and disclosure statement that their service will commence on the next utility meter read date coupled with the utility account transfer letter that includes communication of the customer's next meter read date.

#### **A. Communication of Customer Start Date**

By the terms of the proposed Interim Guidelines, EGSs would be required to obtain information about customer meter cycles to inform consumers about the date when the customer account can be transferred. (Proposed Guideline E.1.). EGSs should include information about the customer's meter read date, the switching deadline and the account transfer date in marketing to a customer. (Proposed Guideline E.3.). A good faith estimate of the starting date for the customer's service would be required in the EGS disclosure statement as well. (Proposed Guideline H.2.). NEM is concerned that these proposals appear to be requiring EGSs to incorporate the use of specific starting dates with respect to individual consumers and as such may severely restrict EGSs ability to effectively communicate to mass market residential consumers.

For example, EGSs have access to utility meter read cycles through the Eligible Customer List (ECL). As alluded to in Commissioner Cawley's Statement in this proceeding, some consumers will choose not to participate in the ECL, therefore limiting EGS access to the meter read information for marketing purposes. In addition, each utility performs its meter reads differently.

EGSs will have to interpret the meter read data from the ECL from each utility to develop a matrix to project forward a switch date. Even with the EGSs best good faith estimate, this complicated process will be susceptible to human error. From a marketing perspective, requiring EGSs to utilize a specific, “live” date in mass market solicitations would require the EGS to know each individual customer’s switch date in order to know when to mail the solicitation to the customer in a timeframe that the information would be accurate. Likewise, disclosure statements for consumers would have a shortened, more limited timeframe for effective distribution to customers, perhaps only one or two weeks. EGSs that utilize door-to-door sales would have to develop, and require their sales agents to carry, a continually updated matrix of switch dates to communicate to customers. As additionally raised by Commissioner Cawley in question 4 of his Statement, it is NEM’s members experience that consumers do not have ready access to their billing statements that would be needed for EGSs to provide meter read information to consumers during the contracting process and the availability of customer bills should not be relied upon as a basis for requiring EGSs to provide specific start dates.

Clearly, there is a significant increased burden associated with including specific dates in EGS marketing and the disclosure statement. In response to Commissioner Cawley’s question about the importance of EGSs communicating a projected start date to consumers, NEM believes that consumers would be just as well served by the EGS providing a generalized explanation in marketing communications and the disclosure statement that their service will commence on the next utility meter read date. The EGS’s communication of a specific date, even though made in good faith, would only be an educated estimate when made by the EGS. Indeed, the meter read information resides with the utility, and they are in the best position to accurately communicate this information. Even the utility cannot provide an absolute guarantee of when the customer

switch will occur. Proposed Guideline L and Appendix B would require the utility to provide the customer with the meter read date in the account transfer letter. This would supplement the EGS's generalized explanation to the consumer that service will commence on the next utility meter date.

### **B. Submission of Account Transfer Notice Before Switching Deadline**

Proposed Guideline F.1. would require EGSs to submit an account transfer notice to the utility before the switching deadline occurs so as to ensure the transfer occurs at the customer's next immediate meter read date. Proposed Guideline F.2. sets forth an exception in the case that a customer has agreed to a delay in the start of service. NEM requests clarification of this provision such that it would be permissible for an EGS to hold an enrollment so long as it is not past the next switching deadline. In other words, from an operational standpoint, EGSs may have reasons to hold an enrollment for some period and they should be permitted to do that so long as the enrollment is submitted before the switching deadline. In addition, because of the ongoing nature of marketing efforts and consumer enrollments, it is common for EGSs to get enrollments just prior to a switching deadline. In those cases where it would create an operational difficulty for the EGS to provide the enrollment to the utility before the technical next "switching deadline," wherein the EGS has a valid operational justification for the delay, NEM requests that the Commission recognize this as a safe harbor exception to the requirement that the account transfer notice be provided before the switching deadline occurs.

### **C. Written Evidence of Customer's Consent to Transfer its Account**

The Proposed Guidelines would shift the responsibility of obtaining written evidence of the customer's consent to transfer its account to the EGS, instead of the utility. (Proposed Guideline

I.2.). Proposed Guideline I.1. states that, “A document signed by the customer of record whose sole purpose is to obtain customer consent to change EGSs shall constitute valid written evidence that the customer authorized an EGS to transfer the customer’s service account.” Under Proposed Guideline I.2., the submission of an account transfer notice by the EGS to the utility shall satisfy the statutory requirement of written evidence of consent to transfer the customer’s account. In this context, NEM requests clarification that the Commission’s use of the terms “document signed by the customer” and “written evidence” are intended to encompass all currently valid forms of consumer enrollment, i.e., telephonic and electronic enrollments, as well as wet signature enrollments.

### **III. Incorporation of Supplier Switching in Utility Smart Meter Deployment Plans**

The Commission explained in the Tentative Order that technological constraints associated with utilities’ current meter systems prevented the consideration of mid-cycle meter reads to speed the customer switching process at this time. However, the Commission did request comment on the proposal that, “supplier switching be fully integrated into all smart meter deployment plans, with the expectation that, once smart meters are in use, supplier switching will be able to occur at any given point in time.” (Tentative Order at 25). NEM supports this proposal as an appropriate longer term goal to improve the customer switching and shopping experience. And, it is important to recognize this requirement now to ensure that it is incorporated in smart meter deployment plans going forward. Indeed, as discussed in Section II of our comments, the proposal for EGSs to include the customer’s starting date in marketing communications and the disclosure statement is premature at this time. Particularly because EGSs do not now have real time access to this type of meter read information and without the means to accomplish mid-cycle switches, the most accurate manner in which an EGS should be expected to communicate

the switching process to consumer is to provide a generalized statement that service will commence on the next utility meter read date.

#### **IV. Application of Proposed Interim Guidelines to the Natural Gas Industry**

The Commission additionally asked that commenters discuss the “feasibility” of applying the proposed Interim Guidelines to the natural gas industry. (Tentative Order at 23). In general, NEM is supportive of the Commission’s application of the Interim Guidelines, or an appropriate subset of the Interim Guidelines, to the natural gas industry. From a practical perspective, it makes sense to implement rule changes of this nature on a coordinated basis across the utilities, especially for competitive suppliers that provide both electric and natural gas commodity and for dual commodity utilities. Because the Interim Guidelines propose to accelerate the switching process by eliminating the ten day waiting period and without reliance upon metering as a foundation of the proposal, the technological metering differences that may exist between electric and natural gas utilities should not be an issue. That being said, NEM is cognizant that the switching process operates on a different timeline for the natural gas utilities and that different operational standards are in place for the natural gas utilities. Accordingly, the Commission may want to allow the stakeholders the opportunity to collaboratively discuss and consider the application of the proposed Interim Guidelines to the natural gas utilities, with the understanding that it occur on an expedited basis to permit a coordinated roll out of the changes with the electric utilities should it be approved.

#### **V. Conclusion**

NEM supports the Commission’s longstanding efforts to ensure the availability of energy choice options to consumers, including as here, through the business rules that underlie the smooth

transition of consumers from utility service to competitive supply service. NEM appreciates this opportunity to submit comments on the proposed Interim Guidelines to facilitate the timely transfer of customer accounts from the utility to an electric generation supplier.

Sincerely,

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Dated: December 14, 2011.

**APPENDIX A**  
**NEM Suggested Revisions to Proposed Account Transfer Letter**  
**(additions shown in red font, deletions in strikethrough)**

mm/dd/yy

[CUSTOMER NAME]  
[MAILING ADDRESS]

Customer/Account No: [XXXXXXXXXX]

For Service To:  
[SERVICE ADDRESS]

RE: **Welcome to Pennsylvania's Power Switch Program**  
~~IMPORTANT NOTICE ABOUT YOUR ACCOUNT~~

Dear [CUSTOMER]:

**Welcome to Pennsylvania's Power Switch program.** We received notice that [EGS]~~the following company~~ will be your electric supplier **of choice and their contact information is indicated below.** You are joining the thousands of other Pennsylvania customers that have selected the electric generation supplier of their choice.÷

[EGS NAME]  
[EGS CONTACT INFORMATION]  
**[EGS TELEPHONE NUMBER]**

Our records also indicate that you will receive [X] bill from [EDC] which will reflect [EDC] **delivery** charges and ~~those of your electricity supplier~~ **charges from [EGS].**

[EGS]~~Your new supplier~~ will begin providing you with energy **supply** when your meter is read on or about [XX/XX/XXXX]. You will receive your first bill showing this supplier's charges the following month.

If this information is correct, you do not need to call **anyone**us.

If you have any questions about this notice, please contact [EGS]~~your new supplier~~. **Your new**The supplier's contact information may be found above or on the disclosure statement you received from your supplier.

If you have any other questions or concerns about your electricity service, you may contact **your electric delivery company**us at 1-[XXX-XXX-XXXX] between the hours of [X] a.m. to [X] p.m. Monday through Friday.

Sincerely,  
[EDC]