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December 14, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA HAND DELIVERY

**RE: Interim Guidelines Regarding Standards For Changing a Customer's Electricity
Generation Supplier; Docket No. M-2011-2270442**

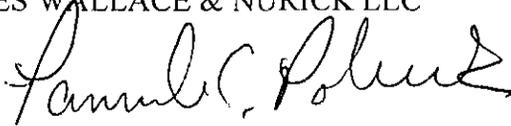
Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the original and five (5) copies of the Comments of the Industrial Energy Consumers of Pennsylvania ("IECPA"), Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customers Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups") in the above-referenced proceeding.

Please date stamp the extra copy of this transmittal letter and Comments, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Pamela C. Polacek

Counsel to the Industrial Customer Groups

PCP/sar
Enclosures

c: Office of Competitive Market Oversight Retail Markets Investigation (via e-mail)
Patricia Krise Burket, Law Bureau
Daniel Mumford, Bureau of Consumer Services

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines Regarding
Standards For Changing a Customer's
Electricity Generation Supplier

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Docket No. M-2011-2270442

COMMENTS OF THE INDUSTRIAL CUSTOMER GROUPS

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Dated: December 14, 2011

I. INTRODUCTION

On November 10, 2011, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued a Tentative Order with proposed Interim Guidelines for accelerated switching between the electric distribution company ("EDC") and electric generation suppliers ("EGSs"), or between EGSs. The Interim Guidelines were developed by the Commission's Office of Competitive Market Oversight in conjunction with the *Investigation into Pennsylvania's Retail Electricity Market*. In the Interim Guidelines, the Commission proposes (1) the elimination of the 10 day waiting period after an EDC is informed by an EGS that a customer is transferring his or her account, and (2) a timely notification of the EDC by the EGS permitting account transfer on the next available meter read date.

The Industrial Energy Consumers of Pennsylvania ("IECPA") is an association of energy-intensive industrial companies operating facilities across the Commonwealth of Pennsylvania. IECPA's members consume in excess of 25% of the industrial electricity in Pennsylvania and employ approximately 41,000 workers. Also sponsoring these Comments are coalitions of industrial customers receiving service from most of the Commonwealth's electric distribution companies ("EDCs"): Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups").

Because the Industrial Customer Groups use substantial volumes of electricity in their manufacturing and operational processes, any modification to the terms or conditions of electricity service for Large Commercial and Industrial ("C&I") customers could substantially

impact the Industrial Customer Groups' overall operating costs. Accordingly, the Industrial Customer Groups respectfully submit the following Comments on the Interim Guidelines.

II. SUMMARY OF INTERIM GUIDELINES

A. Present EDC and EGS Switching Practices

The Commission's current regulations require EDCs to mail a confirmation letter to customers after EDCs are informed by an EGS that a customer has switched. This confirmation letter begins a 10 day waiting period, during which time the customer may contact the EDC if the switch was unauthorized, i.e., if slamming occurred. After this 10 day period, the EDC can switch the customer to EGS service at the next meter read date. The 16 day rule, which EDCs agree is the shortest switching timeframe under current regulations, includes both this 10 day waiting period and a six day period for the EDC to implement the necessary account transfer procedures at the customer's next meter read date. When an EGS does not inform an EDC of the switch at least 16 days before a meter read date, the EDC must wait until the next meter read date to change the customer's service, potentially resulting in up to a 45 day period to switch.

B. 10 day Waiting Period Elimination

Under the Interim Guidelines, EDCs would no longer be expected to mail a confirmation letter to customers and wait 10 days before beginning switching procedures. Instead, the EGS will be responsible for receiving written authorization from the customer, and then submitting an account transfer request to the EDC. At that time, the EDC will send an account transfer letter to the customer, which does not include a waiting period, but provides customers with basic EGS information and EDC contact information.

Although the removal of this 10 day waiting period provides less time for customers to address slamming incidents, residential and small commercial customers still have some protection from slamming through a three day rescission period. The customer will receive a

written disclosure from the EGS confirming the switch. Afterwards, the customer has three business days to contact the EGS and rescind the switch if it was unauthorized. If the rescission does not occur within the first three business days, the EDC will handle all future rescissions, and the EGS must reimburse the costs of rescission to the EDC.

C. Altering EGS Practices

In its Interim Guidelines, the Commission also chooses to give increased responsibilities to EGSs in the switching process. First, the disclosure statement sent by EGSs to a customer should include a good faith approximation of the switching date based on the EDC's meter read date for the customer. EGSs already have access to this meter read information, and if they do not, the Interim Guidelines require EDCs to provide this information at the direction of the customer or Commission. Second, EGSs should adopt measures to inform EDCs of account transfers by a date that ensures a customer will be switched at the next possible meter read date. The Commission proposes that each EDC establish a switching deadline, which will be the last day EGSs can submit account transfers for a specific meter read date. It will then be up to the EGS to complete customer enrollment before this deadline to facilitate the acceleration of the switching timeline.

III. COMMENTS

During this investigation, it is essential that the Commission balance its goal of decreasing switching timeframes against the need to ensure that EGS switches are accurate and authorized by the consumer. Section 2807(d)(1) was included in the Electricity Generation Customer Choice and Competition Act to explicitly emphasize the importance of this fundamental consumer protection (i.e., that supplier switches must be explicitly authorized by the consumer). Although elimination of the 10 day waiting period and modified EGS practices

will likely accelerate the switching timeframe, these changes also magnify the risk of slamming for all customers, who will have less time to determine and rectify occurrences of slamming.

Therefore, the Industrial Customer Groups request that the Commission carefully balance the importance of switching quickly versus the importance of switching accurately. The customer should be of paramount concern when considering this balance. The Industrial Customer Groups cannot support accelerating the switching timeframe and eliminating the 10 day waiting period if customers will become more vulnerable to slamming with no mechanisms in place for recourse.

The Commission's Interim Guidelines view the possibility of after the fact fines and potential EGS license revocation as sufficient to deter slamming. When exposed to slamming, customers are faced with both internal activities and costs, as well as external activities and costs, to deal with the EGS and EDC to remedy the situation. These costs include employee and/or consultant/legal time to detect the unauthorized switch, to pursue the complaint with the EGS/EDC/Commission, and to determine the appropriate compensation based on the billing rate structure if supply actually flowed from the unauthorized EGS. The Interim Guidelines in their present form specify that an EGS is required to compensate the EDC for costs resulting from slamming; however, it is unclear whether the same rule would be adopted for customers. The Industrial Customer Groups recommend that the Final Order specify that EGSs engaging in unauthorized switching must compensate customers for all costs incurred while resolving the unauthorized switching incident. Because the Interim Guidelines reduce the safeguards in place to protect customers from slamming, it is important that customers do not suffer financially from this accelerated switching time period. Furthermore, this new system should be implemented on

a trial basis and revisited if it is resulting in excessive levels of unauthorized switches being submitted by EGSs.

In addition, when determining whether the accelerated switching procedures should be adopted, the Commission should weigh the benefits of these procedures against the costs of implementing them. The Tentative Order acknowledges that costs will be incurred by EDCs to change EDI systems. At this point, those costs have not been quantified. If the costs outweigh the benefits, then this change should not be implemented.

Finally, if EDCs will be compensated for the costs of implementing the Interim Guidelines, then the Commission should authorize cost recovery from the parties who will benefit from these changes, i.e., competitive suppliers. As is well established, Large C&I customers do not require programs to incentivize switching, because they largely already participate in the retail supply market. Many EGS contracts for larger customers contain notice provisions to terminate the arrangement at the end of the contract term that are longer than the current 16 day switching time frame. In addition, customers normally begin the process to replace an existing EGS contract months in advance of the contract termination date, which is different from the scenario that the Commission appears to be concerned with in the Tentative Order. Although both residential and small commercial customers theoretically benefit from accelerated switching, the Industrial Customer Groups believe that because EGSs are the major proponents of these new practices, and because they will be the parties who profit from these changes, it is appropriate for EGSs to finance the procedural changes required to implement accelerated switching practices.

IV. CONCLUSION

The Industrial Customer Groups request that the Commission consider the above-stated factors when developing its Final Order regarding accelerated switching timeframes. In particular, the Industrial Customer Groups recommend that the Commission: (1) balance the competing interests of accelerated switching against switching accuracy and customer protection; (2) require that EGSs reimburse customers and EDCs for all of the costs associated with unauthorized switching; and (3) recognize that the procedures for implementing accelerated switching should be financed by EGSs.

WHEREFORE, the Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By



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