



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Teresa K. Schmittberger  
Direct Dial: 717.237.5270  
Direct Fax: 717.260.1688  
tschmittberger@mwn.com

January 17, 2012

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

**VIA HAND DELIVERY**

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**RE: Investigation of Pennsylvania's Retail Electricity Market;  
Docket No. I-2011-2237952**


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.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and Notice, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Teresa K. Schmittberger

Counsel to the Industrial Customer Groups

TKS/sar

Enclosures

c: Office of Competitive Market Oversight Retail Markets Investigation (via e-mail)  
Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation of Pennsylvania's :  
Retail Electricity Market: : Docket No. I-2011-2237952  
Intermediate Work Plan :

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**COMMENTS OF THE INDUSTRIAL CUSTOMER GROUPS**

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Pamela C. Polacek (PA I.D. No. 78276)  
Teresa K. Schmittberger (PA I.D. No. 311082)  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300

Counsel to 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

Dated: January 17, 2012

## I. INTRODUCTION

As part of the Pennsylvania Public Utility Commission's ("Commission's") ongoing Investigation into Pennsylvania's Retail Electricity Market ("Retail Markets Investigation" or "RMI"), the Commission issued a Tentative Order on December 15, 2011, proposing an Intermediate Work Plan implementing changes that have been discussed in prior RMI Orders. This Intermediate Work Plan includes the retail enhancements electric distribution companies ("EDCs") will be expected to adopt before the end of their next default service plans, as well as new requirements for electric generation suppliers ("EGSs"). The Commission requested Comments in response to this Intermediate Work Plan before the Commission adopts a Final Order regarding this Plan.

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, their customer information maintained by EDCs reflects highly confidential aspects of their businesses. As Large Commercial and Industrial ("C&I") customers, information about their electricity usage in particular indicates when their manufacturing or operational processes are

occurring. In the Intermediate Work Plan, the Commission requested Comments regarding whether customer bills from EDCs should be accessible to EGSs. Specifically, the Commission asked whether the language within Letters of Authorization ("LOAs"), submitted by customers to a number of EGSs to receive competitive service, tacitly authorize EGSs to receive customer bills from EDCs. Accordingly, the Industrial Customers respectfully submit the following Comments responding to this aspect of the Intermediate Work Plan.

## II. COMMENTS

Access to customer information and, more specifically, the ability to restrict access when the information is considered to be confidential or proprietary, is extremely important for C&I customers. Usage information, including rate schedule, load profiles, transmission/capacity obligations, and tax status, can be highly proprietary for certain industries. A competitor or "well-intentioned" EGS/consultant may be able to use this information to determine production schedules, energy costs, and plant efficiency levels that can subsequently be used by a competitor to develop pricing strategies related to competitive offers for the output of the particular facility. This is especially true in industries where energy is a major element of the conversion cost to produce the product, such as chemicals, industrial gases, and metals. As a result, the Industrial Customer Groups avow that there are only limited circumstances which should permit an EGS to access a customer's information from an EDC or a customer-specific bill.

An LOA may be an appropriate vehicle for authorizing EGSs to receive customer information if the LOA is specific regarding the information that can be accessed, negotiable between the EGS and the customer, and revocable by the customer, including the EDC being informed when the LOA has expired or been revoked. An LOA should not be viewed as a blanket and never-ending authorization to access a customer's information. The purpose of

LOAs is to provide EGSs with customer information in response to a customer's Request for Proposal. EGSs only require access to the specific customer's information from the EDC while preparing a bid for the customer. If the customer chooses service from a different EGS, all other EGSs who accessed the customer's EDC data via the LOA should be barred from future access.

Furthermore, because the language of LOAs differs among EGSs, there cannot be a blanket determination by the Commission as to whether LOA language is sufficient to authorize the release of customer bills to EGSs. Due to this varying language, the customer's intent when signing the LOA provides insight into how much access EGSs should have to the customer's information. When a customer fills out and signs an LOA, the customer is doing so under the assumption that the EDC will only release enough information for EGSs to determine a bid. As a result, LOAs by themselves cannot provide ongoing access to a customer's EDC bills.

The Industrial Customer Groups are willing to work with the RMI Participants and Office of Competitive Market Oversight in reviewing and discussing the language and treatment of LOAs. In addition, the EGS's standard contract language regarding access to EDC data may need to be reviewed, which may address the EGS's access during the term of the contract. If a customer subsequently chooses service from a different EGS, the access of other EGSs to the customer's information should be automatically revoked. Only the current EGS of the customer should be allowed continued access to the customer's bills from the EDC. Similarly, at the end of the contractual relationship, the EGS should cease to have access to the customer's information. The Commission should only permit disclosure to EGSs of the relevant customer information necessary for the provision of service to a customer, and only for the period of time that the EGS actually serves the customer.


Lastly, the Industrial Customer Groups ask the Commission to maintain the privacy rights of customers, and ensure that customer information is not accessible to any EGSs or other parties to whom customers have not granted access. If a customer has chosen to restrict all or a portion of its information from the Eligible Customer List ("ECL"), then the customer should be able to confirm with the EDC the specific EGSs that (a) are authorized to access the customer's information; and (b) have accessed the customer's information, especially if unauthorized entities have accessed the data. This should include the ability to periodically change the list of EGSs that are authorized and to confirm what, if any, information the customer has authorized to be released through the ECL. If a customer has not opted to restrict the release of its information via the ECL, then the tracking of EGS requests for such data would not be required.

The electric usage and customer contact information on file with EDCs provides private details about each customer, and thus should be treated with heightened protection. As the Retail Markets Investigation progresses, the Commission will continue to remove barriers to shopping, which may result in increasingly favorable treatment of EGSs at the expense of customers' privacy. For this reason, the Industrial Customer Groups believe that customers should have mutual rights to contact an EDC and determine who is accessing their private information. The Industrial Customer Groups are available to coordinate with other stakeholders to address these issues.

**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 

Pamela C. Polacek (PA I.D. No. 78276)

Teresa K. Schmittberger (PA I.D. No. 311082)

100 Pine Street

P.O. Box 1166

Harrisburg, PA 17108-1166

Phone: (717) 232-8000

Fax: (717) 237-5300

Counsel to 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

Dated: January 17, 2012

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

### VIA E-MAIL AND FIRST CLASS MAIL

Gary A. Jack, Esq.  
Duquesne Light Company  
411 Seventh Ave. 16-1  
Pittsburgh, PA 15219  
[gjack@duqlight.com](mailto:gjack@duqlight.com)

Tanya J. McCloskey, Esq.  
Aron J. Beatty, Esq.  
Darryl Lawrence, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
[tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)  
[abeatty@paoca.org](mailto:abeatty@paoca.org)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)

Theodore S. Robinson, Esq.  
Citizen Power  
212 Murray Avenue  
Pittsburgh, PA 15217  
[robinson@citizenpower.com](mailto:robinson@citizenpower.com)

Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak LLP  
P.O. Box 1778  
100 North Tenth Street  
Harrisburg, PA 17101  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Paul E. Russell, Esq.  
Associate General Counsel  
PPL Electric Utilities, Inc.  
Two North Ninth Street  
Allentown, PA 18108-1179  
[perussell@pplweb.com](mailto:perussell@pplweb.com)

Deanne O'Dell, Esq.  
Eckert Seamans Cherin & Mellott LLC  
P.O. Box 1248  
Harrisburg, PA 17108-1248  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)

Bradley A. Bingaman, Esq.  
FirstEnergy  
2800 Pottsville Pike  
P.O. Box 16001  
Reading PA 19612-6001  
[bbingaman@firstenergycorp.com](mailto:bbingaman@firstenergycorp.com)

Linda R. Evers, Esq.  
Stevens & Lee  
111 N. Sixth Street  
P.O. Box 679  
Reading, PA 19603-0679  
[lre@stevenslee.com](mailto:lre@stevenslee.com)

PA Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101-1414  
[PULP@palegalaid.net](mailto:PULP@palegalaid.net)

Michael Meath, President  
Strategic Communications, LLC  
3532 James Street, Suite 106  
Syracuse, NY 13206  
[mmeath@stratcomllc.com](mailto:mmeath@stratcomllc.com)

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Craig G. Goodman  
The National Energy Marketers Association  
3333 K Street NW Suite 110  
Washington, DC 20007  
[cgoodman@energymarketers.com](mailto:cgoodman@energymarketers.com)

Elizabeth R. Marx, Esq.  
Pennsylvania Coalition Against  
Domestic Violence  
3605 Vartan Way  
Harrisburg, PA 17110  
[erm@pcadv.org](mailto:erm@pcadv.org)

Terrance J. Fitzpatrick  
Energy Association of Pennsylvania  
800 North Third Street, Suite 205  
Harrisburg, PA 17102  
[tfitzpatrick@energypa.org](mailto:tfitzpatrick@energypa.org)

Jeanne Dworetzky, Esq.  
Exelon Business Services Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
[Jeanne.dworetzky@exeloncorp.com](mailto:Jeanne.dworetzky@exeloncorp.com)

Daniel Clearfield, Esq.  
Eckert Seamans Cherin & Mellot LLC  
213 Market Street  
8<sup>th</sup> Floor  
Harrisburg, PA 17101  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)

Richard Hudson  
Director of Energy Affairs  
ConEdison Solutions  
1102 Park Square  
Munhall, PA 15120  
[hudsonr@conedsolutions.com](mailto:hudsonr@conedsolutions.com)

Madelon Kuchera  
BlueStar Energy Services  
363 West Erie Street  
Chicago, IL 60654  
[mkuchera@bluestarenergy.com](mailto:mkuchera@bluestarenergy.com)

Scott J. Schwarz, Esq.  
City of Philadelphia  
1515 Arch Street  
16<sup>th</sup> Floor  
Philadelphia, PA 19102-1595  
[scott.schwarz@phila.gov](mailto:scott.schwarz@phila.gov)

Brian J. Knipe  
Buchanan Ingersoll & Rooney, PC  
17 North Second Street  
15<sup>th</sup> Floor  
Harrisburg, PA 17105-1503  
[brian.knipe@bipc.com](mailto:brian.knipe@bipc.com)

Jay Kooper  
Director of Regulatory Affairs  
Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095  
[jkooper@hess.com](mailto:jkooper@hess.com)

Thu B. Tran, Esq.  
Community Legal Services  
1424 Chestnut Street  
Philadelphia, PA 19102  
[ttran@clsphila.org](mailto:ttran@clsphila.org)

Courtney Lane  
Citizens for Pennsylvania's Future  
1500 Walnut Street  
Suite 502  
Philadelphia, PA 19102  
[lane@pennfuture.org](mailto:lane@pennfuture.org)

Benjamin L. Willey  
Law Offices of Benjamin L. Willey LLC  
7272 Wisconsin Avenue  
Suite 300  
Bethesda, MD 20814  
[blw@bwilleylaw.com](mailto:blw@bwilleylaw.com)

Elise Caplan  
Project Manager  
American Public Power Association  
1875 Connecticut Avenue, NW  
Washington, DC 20009  
[ecaplan@publicpower.org](mailto:ecaplan@publicpower.org)

Ray Landis  
Director of Government Affairs  
AARP  
30 N. 3<sup>rd</sup> Street,  
Suite 750  
Harrisburg, PA 17101  
[rlandis@aarp.org](mailto:rlandis@aarp.org)

**VIA FIRST-CLASS MAIL**

Honorable Camille George  
Pennsylvania House of Representatives  
38B East Wing  
Harrisburg, PA 17120-2020

Honorable Phyllis Mundy  
120<sup>th</sup> Legislative District  
36 East Wing  
P.O. Box 202120  
Harrisburg, PA 17120-2120

Edward V. Johnstonbaugh  
Future Times Energy Aggregation Group  
474 Justabout Road  
Venetia, PA 15367

David S. Cohen  
President  
Rescom Energy LLC  
20 East Avenue  
Bridgeport, CT 06610

Tim Locascio  
Manager  
Liberty Power Corp.  
1970 West Cypress Creek Road  
Suite 600  
Fort Lauderdale, FL 33309

Dr. Vera J. Cole  
Mid-Atlantic Renewable Energy  
Association  
2045 Upper Rocky Dale Road  
Green Lane, PA 18054

Frank Caliva, III  
Strategic Communications LLC  
3532 James Street  
Suite 106  
Syracuse, NY 13206

Christopher C. O'Hara, Esq.  
NRG Energy Inc.  
211 Carnegie Center Drive  
Princeton, NJ 08540

Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North Second Street  
Harrisburg, PA 17101



Teresa K. Schmittberger

Counsel to the Industrial Customer Groups

Dated this 17<sup>th</sup> day of January, 2012, at Harrisburg, Pennsylvania