

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines for Natural Gas Distribution Company Eligible Customer Lists)) **Docket No. M-2012-2324075**

**Comments of the
National Energy Marketers Association**

The National Energy Marketers Association (NEM)¹ hereby submits comments in support of the establishment of binding guidelines for the utilities provision of gas eligible customer lists (ECLs) as proposed in the Tentative Order entered in the above-referenced proceeding on September 27, 2012. In the Tentative Order the Commission initiated a generic proceeding to establish non-binding guidelines on gas utilities provision of eligible customer lists finding that, "it would benefit the continued development of the retail market for natural gas supply in Pennsylvania for the Commission to provide uniform guidelines concerning the composition of lists of eligible customers and the terms relating to the provision of these ECLs to NGSs." (Tentative Order at 2). The Commission found that the guidelines for provision of gas customer lists should follow the constructs for provision of electric customer lists, i.e., "(1) licensed competitive suppliers should have access to the distribution utility customer lists, (2) licensed competitive suppliers are obligated to safeguard the confidentiality of customer information and (3) customers will have the opportunity to restrict the release of all of their account information, just the historical data or none of their account information." (Tentative Order at 3).

¹ 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 followed the Commission’s rejection² of a Petition that had been filed earlier this year for a declaratory order that the gas utilities were under a continuing obligation to provide complete customer lists to gas suppliers operating in their service territories without the imposition of fees on the gas suppliers. The Petition specifically involved NFG and Columbia. Although the Commission rejected the Petition, the Commission did find that, “retail competition in the natural gas industry would be better served by guidance from the Commission with respect to the establishment and release of lists of eligible customers as was done last year with respect to the electric industry. . . . We agree that a proceeding which applies to all NGDCs, as opposed to only two, is the better forum for such action.”³ For the reasons set forth herein, NEM strongly supports the Commission’s establishment of binding guidelines on natural gas utility eligible customer lists.

I. Commission Authority to Adopt Binding Guidelines of Gas Eligible Customer Lists

The Commission has proposed in the instant matter to adopt non-binding guidelines for the utilities’ provision of natural gas ECLs. It is well within the Commission’s authority under the Natural Gas Choice and Competition Act to establish binding gas ECL guidelines. Section 2204(g) of the Natural Gas Choice and Competition Act that provides the Commission with expansive authority “to explore avenues” “for encouraging increased competition in the Commonwealth.” In addition, Section 2204(a) gives the Commission the authority to, “adopt orders, rules, regulations and policies as shall be necessary and appropriate to implement fully this chapter.” These statutory grants of authority are the underpinning of the Commission’s recent rulemaking order reformulating the gas utilities calculation of the Price to Compare in

² Docket No. P-2012-2291983, Opinion and Order, issued September 27, 2012.

³ Id. at 10.

furtherance of the goal of promoting retail competition.⁴ Likewise, making annually-updated gas ECLs available to competitive suppliers on an on-going basis is a low cost, high yield way to facilitate retail gas market development and clearly falls within this statutory grant of Commission authority.

NEM also notes that the Commission's regulations at 52 Pa. Code 62.78⁵ on privacy of customer information specifically delineate the process by which a gas utility is to share customer information with third parties. NEM recognizes that the Commission did not find this regulation was a basis to grant the Petition for Declaratory Order because it lacked an "express directive"⁶ as to when utilities should provide customer account information or whether provision of an ECL was on-going obligation. However, NEM would suggest that the inclusion of this provision in the regulations fundamentally contemplates that gas ECLs would be created, maintained and disseminated to competitive suppliers on an on-going basis.

Finally, as the Commission noted in the Tentative Order, "[t]he general parameters of retail marketing natural gas to the public should be little different from those governing the retail

⁴ Docket No. L-2008-2069114, Revised Final Rulemaking Order, April 14, 2012.

⁵ § 62.78. Privacy of customer information.

(a) An NGDC or NGS may not release private customer information to a third party unless the customer has been notified of this intent and has been given a convenient method, consistent with subsection (b), of notifying the entity of the customer's desire to restrict the release of the private information. If the customer does not choose to restrict the release of one of the two restriction options in paragraphs (1) and (2), all of the customer's private information may be released to a third party except for the telephone number. If the customer chooses to restrict the release of private customer information, the customer may restrict information released according to one of the following two restriction options:

(1) Restrict the release of only the customer's historical billing data in the NGDC's standard pricing unit, that is, as denominated by the NGDC.

(2) Restrict the release of all private customer information including name, billing address, service address, rate class, rate subclass, account number and historical billing data in the NGDC's standard pricing unit, that is, as denominated by the NGDC.

(b) Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, or by oral or electronic communication.

(c) Nothing in this section prohibits the NGS and NGDC from performing their mandatory obligations to provide natural gas service as specified in the disclosure statement and in 66 Pa.C.S. (relating to the Public Utility Code).

(d) Telephone numbers may not be released to third parties.

⁶ Docket No. P-2012-2291983, Opinion and Order, September 27, 2012, at 9-10.

marketing of electric power.” (Tentative Order at 3). NEM agrees that the establishment of gas ECLs will advance the same policies in support of retail competition, provide the same benefits to consumers and suppliers, and can be utilized in the same manner to ensure consumer privacy as the Commission recognized in establishing the electric ECL guidelines. Simply stated, there is no justification to depart from this policy of providing ECLs on an on-going basis for the natural gas industry.

II. Benefits to Consumers and Competitive Suppliers of Gas ECLs

NEM strongly supports the provision of gas ECLs to competitive suppliers. ECLs provide a number of benefits to competitive market participants. These include:

- Allowing suppliers to more cost-effectively target consumers to whom they can deliver competitive offerings;
- Allowing suppliers access to data elements that permit them to validate enrollments and therefore prevent customer slamming;
- Reducing customer acquisition costs;
- Encouraging competitive suppliers to continue to engage in their own outreach and education of consumers;
- In addition, the utilities’ provision of both gas and electric ECLs will facilitate supplier marketing to customers in combination gas/electric utility service territories.

All of these benefits that flow from the availability of ECLs allow competitive suppliers to reduce their costs of doing business. In turn, it encourages supplier entry and market participation which ultimately results in marketers being able to offer energy products with more competitive prices to consumers and also to offer an increased array of energy products in the marketplace. As such, the provision of ECLs to competitive suppliers also provides a significant and direct benefit to Pennsylvania consumers.

III. Structure and Operation of the Proposed Guidelines

The proposed guidelines provide for customer participation in the ECL on an opt-out basis. Under the proposed guidelines, when the utility solicits customers about the release of account information, the customers should have the ability to restrict the release of all of their account data or just their historical data. New lists are to be developed and customer opt-out selections are proposed to occur every three years. (Tentative Order at 4). Future utility ECL solicitations are proposed to occur at least annually after the initial rollout. (Tentative Order at 4).

NEM strongly supports the Commission's initiative to establish guidelines for the provision of gas ECLs that follow on the principles recently adopted for the electric utilities. **We support customer participation in the ECL process on an opt-out basis as well as the provision of ECLs to competitive suppliers on an on-going basis, subject to annual updates and at no charge to competitive suppliers.** Moreover, as was determined with respect to the electric industry,⁷ consumer privacy will be protected under the process set forth in the proposed guidelines by permitting customers to restrict whether and/or how much of their account data is released on the ECL.

NEM does believe that the ECL must be maintained and disseminated in a manner that strikes an appropriate balance between the accuracy of the information on the list with consumers' information privacy concerns. This includes the need for utilities to retain records as to those consumers that choose to opt-out of the list. Additionally, consumers should receive notice of the ECL on a regular basis, not just through direct utility solicitation but through other utility communications such as bill inserts and announcements, to permit periodic updating of the ECL

⁷ Docket Nos. M-2010-2183412 et al, FINAL ORDER ON RECONSIDERATION, November 10, 2011.

and to maintain the information on the ECL on the most current, accurate basis possible. This will ensure that the decisions of consumers that do not wish to participate are respected. Likewise, as consumers move in and out of service territories, the ECL should be a reasonably timely reflection of those eligible to receive service. This argues in favor of providing an annually-updated gas ECL.

It is proposed that the gas eligible customer lists be comprised of ten data elements as follows:

1. Customer Account Number
 2. Customer Name
 3. Service Address
 4. Billing Address
 5. Tariff Rate Class and Schedule
 6. Rate Subclass/Rate Subcode (if available)
 7. Meter Read Cycle
 8. SOLR/Shopping Status (Y or N)
 9. Monthly Consumption (each of 12 months)(Mcf)
 10. Monthly Peak Demand (each of 12 months) (Mcf/d) (if available).
- (Tentative Order, Appendix A).

In addition to the ten elements delineated for inclusion on the gas ECL, NEM suggests that the following four additional elements also be added:

1. Peak Demand CCF
2. Base factor
3. Use factor
4. County

The addition of these items to the ECL, from the utilities that have the data available, would improve suppliers' ability to forecast their load. For instance, "Peak Demand CCF" is intended to be measure of the most the customer could every use in a day, i.e., at design day conditions behind the utility. Some gas utilities use Peak Demand CCF to base their capacity assignments to suppliers. This capacity is very expensive, and so, if a supplier had access to the Peak Demand CCF data, it would allow the supplier to better price each customer. In addition, the

data elements of Base Factor and Use Factor are coefficients used to predict customer usage. The base factor is the amount of gas an account uses each day of the year regardless of temperature. The use factor is the amount of gas an account uses per each heating degree day. To predict a customer's usage on a given day, you add the base factor to the sum of the use factor and number of heating degree days. For example, if a customer's home had a base factor of 6 therms, and a use factor of 1 therm, and a day is forecast to have 30 HDDs, the customer would be predicted to use 36 therms on that day. As a result, providing suppliers with access to these additional data elements would improve their ability to forecast load and serve their customers.

IV. Conclusion

NEM supports the Commission's establishment of binding guidelines for the utilities provision of gas ECLs that provide for customer participation in the ECL process on an opt-out basis and the provision of ECLs to competitive suppliers on an on-going basis, subject to annual updates and at no charge to competitive suppliers.

Sincerely,

Craig G. Goodman, Esq.
President
Stacey Rantala
Director, Regulatory Services
National Energy Marketers Association
3333 K Street, NW, Suite 110
Washington, DC 20007
Tel: (202) 333-3288
Fax: (202) 333-3266
Email: cgoodman@energymarketers.com;
srantala@energymarketers.com

Dated: October 31, 2012.