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May 20, 2013

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
Harrisburg, PA 17120

**Re: EDC Customer Account Number Access Mechanism for EGSSs**  
**Docket No. M-2013-2355751**

Dear Secretary Chiavetta:

Enclosed please find PECO Energy Company's Comments on the Commission's April 18, 2013 Tentative Order in the above-referenced docket. Kindly time-stamp and return the extra copy of the cover letter of this filing in the enclosed postage-paid envelope.

Should you have any questions, please do not hesitate to contact me at 215-841-4635.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony E. Gay".

Anthony E. Gay  
Associate General Counsel  
Exelon Business Services Company

AEG/ads  
Enclosures

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EDC Customer Account Number :  
Access Mechanism for EGSS :

Docket No. M-2013-2355751

**PECO ENERGY COMPANY'S COMMENTS  
ON THE COMMISSION'S APRIL 18, 2013 TENTATIVE ORDER**

**INTRODUCTION**

PECO Energy Company (“PECO” or the “Company”) hereby submits its comments on Pennsylvania Public Utility Commission’s (“Commission”) April 18, 2013 Tentative Order in this docket (the “Tentative Order”). In the Tentative Order, the Commission addresses a recommendation from its Office of Competitive Market Oversight (“OCMO”). OCMO’s recommendation concerns an electric generation supplier’s (“EGS”) proposal for obtaining customer account numbers from electric distribution companies (“EDCs”) in situations where the numbers are not available from the customer or the EDC’s Eligible Customer List.

PECO appreciates the opportunity to comment on the proposal. The Company is a strong supporter of sustainable retail competition and agrees with the Commission that this proposal raises important issues of personal privacy and security.<sup>1</sup> Accordingly, PECO cautions that any solution that does not ensure the protection of customer privacy and security should not be adopted. Indeed, failure to protect such information would result in exactly the customer frustration, disappointment and unfavorable opinions of the competitive retail market that the Commission, PECO and all interested stakeholders seek to avoid.<sup>2</sup>

<sup>1</sup> Tentative Order, p. 4 (“If the use of [letters of authorization] is expanded to also obtain account numbers, then all customer classes, including residential, are involved. This raises issues of personal privacy and security. . .”); *id.* at 9 (“The systems developed under this initiative must not only produce useful and timely data, but must also do so in a secure manner that safeguards the privacy of consumers.”).

<sup>2</sup> Tentative Order, p.3. (discussing that the purpose of this proposal is to avoid delays that “sometimes result[] in customer frustration and disappointment and a less-than-favorable opinion of the competitive retail market”).

## I. BACKGROUND

This proceeding stems from an EGS raising an issue before OCMO's Committee Handling Activities for Retail Growth in Electricity ("CHARGE"). The issue concerned situations where electric customers who have opted-out of an EDC's Eligible Customer List ("ECL") came into contact with the EGS's sales representatives in public venues, such as malls or trade shows, and were unable to provide their EDC account number to the sales representative.<sup>3</sup>

As previously stated in a prior Commission proceeding, the ECL is

a mailing list [for] EGSSs so that they may market their products to consumers in the same fashion that EDCs offer their basic default service and other supply products to consumers. EGSSs are also provided more detailed usage and contact information for those customers who do not restrict access to this information.<sup>4</sup>

Residential customers have the choice to have information such as their usage, name and address, rate code, and meter read date released through the ECL. They can also choose to limit their ECL information to release only their usage, or they can choose that none of their information be released. This choice is referred to as "opting-out" of the ECL.

In 2010, PECO reset its ECL for all of its customers, essentially requiring customers to affirmatively confirm or update their existing ECL preferences. If a customer responded to PECO's mailing, their information release preference was maintained or updated as requested. If the customer did not respond, their listing defaulted to "release all."

PECO refreshes its ECL every month with any changes customers choose to make to their listings. As of the date of these comments the most recent refresh was completed on May 7<sup>th</sup>, 2013. PECO also places an insert in its bills annually advising customers they

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<sup>3</sup> Tentative Order, p.2.

<sup>4</sup> *Interim Guidelines for Eligible Customer Lists (ECLs) for Electric Distribution Companies*, Docket Number M-2010-2183412, Cawley Statement (Nov. 12, 2010).

can update their ECL release preferences at any time. The next annual insert will be in March 2014 customer bills.

As a result of these efforts, 75% of customers in PECO's service territory have their ECL preference set to release some or all of their information. Only 25% have affirmatively chosen to release none of their information. This is relevant to the issue presented because EGSs can electronically query the ECL for the account numbers of all customers who are listed on the ECL. If a customer has chosen not to be listed on the ECL, however, and does not have their account number with them when they come into contact with an EGS representative at the mall or other public venues, the EGS cannot obtain the account number through a query. And, as the Commission has noted, without the account number of customers who have opted out of the ECL, an EGS cannot, at that time, complete the electronic transaction necessary to enroll and switch the customer from their existing generation supplier.<sup>5</sup>

The supplier that raised this issue in the CHARGE meeting was Green Mountain Energy ("Green Mountain"). It is worth noting that Green Mountain was amenable to using EDCs' existing platforms to provide account numbers for customers who have opted out of the ECL. It is also worth noting that few stakeholders expressed significant interest in this issue, as was reflected by the limited number of position papers that were submitted on the issue.<sup>6</sup>

With this background, PECO hereby responds to the 13 specific questions set forth in the Tentative Order.

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<sup>5</sup> Tentative Order, p. 3.

<sup>6</sup> *Id.* at 6 ("A few of the interested stakeholders also developed and distributed informal position papers on the matters discussed.").

## **II. PECO'S COMMENTS IN RESPONSE TO THE COMMISSION'S QUESTIONS**

**Question 1: EDCs may propose using different technologies to provide account numbers. If so, how much variation among utilities would be too confusing or burdensome upon the suppliers using the systems?**

As noted above, the EGS that initially raised this issue, Green Mountain, has proposed that EDCs use their existing technologies and systems.<sup>7</sup> Contrary to being burdensome or confusing, using existing EDC systems has the benefits of ease of implementation and cost effectiveness.

However, the converse approach – requiring EDCs to create entirely new and presumably uniform platforms to enable EGSSs to obtain the account numbers of customers who have opted out of the ECL – would be burdensome and confusing, as well as potentially costly depending on the new platform required. In addition, the Commission has correctly acknowledged that EDCs are currently implementing or will soon implement numerous information technology (“IT”) system changes to further advance the competitive market.<sup>8</sup> Any new requirements could delay or impede the timely implementation of these retail market enhancements.

Accordingly, utilizing existing platforms and technology, with appropriate protections for the privacy and security of consumer information, should be the key focus of any effort to enable EGSSs to instantaneously obtain the account numbers of customers who have opted out of the ECL.

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<sup>7</sup> See, e.g., Letter on behalf of the Retail Energy Supply Association to Karen Moury, Director of Operations, dated Nov. 30, 2012 (stating: “The process proposed by Green Mountain can be implemented using existing technology and EDC systems.”).

<sup>8</sup> Tentative Order at 5. These IT upgrades include changes to implement the Standard Offer Program, Customer Assistance Plan Shopping, Seamless Moves, and Instant Connect.

**Question 2:** Technologies that have been discussed include the internet, interactive voice response (IVR) telephone and electronic data exchange (EDI). Are some technologies preferable to others and if so, why?

Consistent with its previous response, PECO submits that the best technological approach is to utilize existing EDC systems. In addition, as noted above, whatever technology solution is utilized, its fundamental requirement should be its ability to protect the privacy and security of consumer information.

**Question 3:** In providing account numbers, should there be limits on the response time back from the EDC, and if so, should the timeframes be dependent upon the technology being used?

Response times should be dependent on the technology used, the accuracy of the information provided to obtain the ECL opt-out customer's account number, the number of requests submitted at one time, and the procedures required to protect the privacy and security of the customer's information. In addition, as with any new technology or program, a trial period should be part of the initial implementation during which any response time limitations would be flexible.

**Questions 4 & 5:** What specific identifying data should a supplier be required to submit to the EDC to get an account number? At a minimum, should a customer's name and address be required?

**What level of precision is necessary to ensure accurate data?**

Because these questions are related, PECO is providing a consolidated response. At a minimum, the customer's name and service address (including the zip code and four digit suffix) would be necessary to obtain an ECL opt-out customer's account number. With regard to the level of precision, the customer's name and address would need to be provided exactly as they appear on the customer's bill in order to obtain an exact match.

Thus, for example, if the customer's name is "William" using the nickname "Bill" would likely cause a mismatch or rejection. Using the designation "St." when the customer's billing information uses the designation "Street" would also result in a mismatch or rejection. Similarly, the same would occur if the address did not include the apartment number, suite number or other identifying information connected to the customer's account.

This level of precision is necessary, given the ease with which people can determine or obtain a person's address through observation, the internet, or other publicly available sources. However, although this level of precision can inadvertently provide some amount of customer protection, PECO does not recommend utilizing an EDCs' customer information system search capabilities as a way of ensuring the appropriate level of customer privacy and security. Indeed, this reinforces the critical need for ensuring the privacy and security of the opt-out customer's account information.

**Question 6: The amount and recovery of costs could vary by EDC and by the technology used. If there are significant costs, can they be estimated at this time? Who should be responsible for those costs and what mechanisms should be used to assess and collect costs?**

The cost to use existing EDC technologies and platforms should be minimal. Of course, any required enhancements to these systems would increase the cost. If another technology or platform is ordered, the costs could be significant depending on the technology or platform required. In any event, costs to implement a technology to enable EGSSs to obtain ECL opt-out customers' account numbers should be recovered equally from all EGSSs, through a discount on EGSS purchased receivables, and residential customers. This approach is consistent with the cost-

recovery mechanism the Commission ordered for retail market enhancements in the recent default service proceedings of PECO and other EDCs.<sup>9</sup>

**Question 7: What safeguards are needed to ensure that account numbers are accurately communicated and provided only to the customer and supplier involved?**

The safeguards necessary to effectively protect the personal privacy and security of customer information while enabling EGSSs to obtain the account numbers of customers who have opted out of the ECL is the fundamental and most difficult issue presented in this proceeding. As the Commission has noted

[A] customer's account number is the key identifying piece of data that associates the customer with their EDC accounts. With the EDC account number, an individual can . . . access[] sensitive account information including customer billing and payment history. Possible actions also include adding or dropping a supplier and even requesting the physical discontinuation of service.<sup>10</sup>

Indeed, the privacy and security of customer information in this electronic age is an extremely complex issue, which is currently being considered by the Department of Energy ("DOE") and other government entities.<sup>11</sup>

While the Commission is correct that EGSSs are required by its regulations to maintain the confidentiality of customer information, errors can occur, and, as with door-to-door marketing, individuals sometimes take actions that are expressly prohibited by their employer. Moreover, persons who are not governed by the Commission's regulations may inappropriately obtain and utilize customer information. As stated above, a person's address and name are can easily be

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<sup>9</sup> See, e.g., *Petition of PECO Energy Company for Approval of its Default Service Program II, Order*, Docket No. P-2012-2283641 (Order entered Feb. 14, 2013), at 13.

<sup>10</sup> Tentative Order, p. 4.

<sup>11</sup> For example, the DOE is currently considering data privacy issues in the context of smart meters as part of a multi-stakeholder process. See, e.g., <http://www.smartergrid.gov/privacy>

obtained through the internet or other publicly available venues. Accordingly, a correct name and address cannot serve as the only protection for customer information.

The privacy and security of account information is especially important with respect to ECL opt-out customers, as they have affirmatively chosen not to have their usage and other personal information released through the ECL. As is implied by this question, this issue was not resolved in the stakeholder process. Accordingly, if the Commission chooses not to await the outcome of DOE privacy protection proceedings, PECO recommends that the Commission work to develop convene a more formal industry proceeding to develop an effective mechanism for the protection of customer privacy and security *before* ECL opt-out customer account numbers are released.

**Question 8: What information and format should be required in an LOA?**

PECO respectfully submits that without resolution of privacy and security issues, the content of the LOA has limited significance. In PECO's experience, LOAs have generally been used in situations where EGSSs already have the customer's account number.<sup>12</sup> Thus, it is possible an LOA could contain the same fields as contained in the LOA attached to the Tentative Order, yet not protect the privacy of the customer whose account information is requested.

**Question 9: Are there possible reporting requirements that should be developed so that the Commission can monitor the effectiveness and security of the systems? This could include things like the total number of account numbers provided and the number of complaints or problems associated with the provision of account numbers under these mechanisms.**

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<sup>12</sup> This is consistent with the Commission's information. Tentative Order at 3 ("LOA's have been traditionally used in the past to permit EGSSs to obtain historical usage data for customers who are not on the ECL (*in these cases, the EGSS had the customer's account number.*") (Emphasis added).

While reporting requirements may be an important additional step, without privacy protections being established first reporting requirements will only serve to advise the Commission of security issues after they occur. Any such breach risks customer dissatisfaction with, and potentially fears of, the competitive retail market. Therefore, reporting requirements should not be the Commission's primary focus with respect to customer privacy and information security.

**Question 10: What are the appropriate sales channels that would be authorized to use this process?**

If privacy and security issues can be effectively addressed, PECO agrees with the Commission that the most appropriate channel for enabling EGSSs to obtain the account numbers of customers who have opted out of the ECL for immediate enrollment would be at public locations like shopping malls or trade shows. The Commission correctly recognizes that in these venues it is the customer initiating the sale, it is less intrusive than an unsolicited visit to a customer's home and these venues allow EGSSs to target specific customer groups for their products and services.<sup>13</sup>

**Question 11: What process should the EDCs use to develop their solutions, including the level of stakeholder involvement and Commission oversight?**

As noted above, the DOE and other government entities are already addressing issues of customer privacy and security in the context of electric service. Therefore, at a minimum, the Commission should monitor and participate in these proceedings as it is likely they will ultimately result in industry standards. However, should the Commission wish to move forward outside of those proceedings, it should consider an industry rulemaking, as customer privacy and

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<sup>13</sup> *Id.* at 8

security involves important policy and technical issues that should be thoroughly considered, decided and reviewed, with an opportunity for all interested parties (consumers, EGSs, EDCs, other stakeholders) to participate and be heard.

**Question 12: What are reasonable timeframes for the development and implementation of these systems?**

The implementation timeframe will vary based upon the level of consumer protections established, and the technology ultimately required to be able to safely release the account numbers of customers who have opted out of the ECL.

**Question 13: Are there any other concerns, suggestions or questions that the Commission needs to address?**

PECO has no additional concerns or suggestions. Customer privacy and security are the key issues that must be resolved in order to safely and successfully enable the release of account numbers of customers who have opted out of the ECL. If these issues are resolved, the competitive market in Pennsylvania will continue to sustainably grow. If they are not, customers may be less likely to shop for competitive supply for fear that their personal information may be breached.

## **CONCLUSION**

PECO appreciates the opportunity to comment on the Tentative Order and to respond to the Commission's questions. PECO looks forward to working with the Commission, Staff and other stakeholders in order to safely and securely enable EGSSs who market in public venues to obtain the account numbers of customers who have opted out of the ECL.

Respectfully submitted,

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Dated: May 20, 2013

Counsel for PECO Energy Company

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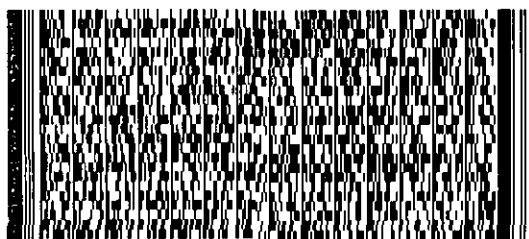


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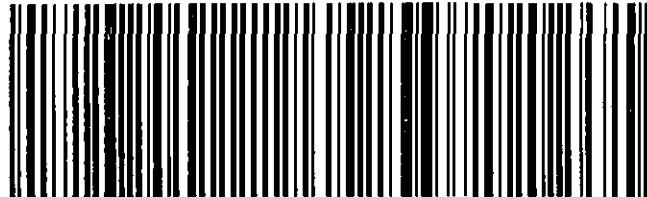


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