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May 26, 2015

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

VIA ELECTRONIC FILING

RE: Submission of the Electronic Data Exchange Working Group's Web Portal Working Group's Solution Framework for Historical Interval Usage and Billing Quality Interval Use; M-2009-2092655

Dear Secretary Chiavetta:

Enclosed please find the Comments of the Industrial Energy Consumers of Pennsylvania ("IECPA"), 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") regarding the above-referenced proceeding.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
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AAB/leh

Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Submission of the Electronic Data Exchange :
Working Group's Web Portal Working Group's : Docket No. M-2009-2092655
Solution Framework for Historical Interval Usage :
and Billing Quality Interval Use :

**COMMENTS OF
INDUSTRIAL CUSTOMER GROUPS**

I. INTRODUCTION

On April 23, 2014, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued a Tentative Order requesting Comments on certain topics related to the Web Portal Working Group's ("WPWG") framework for historical interval usage ("HIU") and billing quality interval usage ("BQIU") data access through web portals ("Tentative Order").¹

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 Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrial Customer Groups") submit these Comments in response to the Tentative Order. IECPA is a 20-member association of energy-intensive industrial customers of electricity and natural gas. More than 41,000 Pennsylvanians are employed by IEPCA member companies alone. DII, MEIUG, PICA,

¹ The Commission's Electronic Data Exchange Working Group ("EDEWG") formed the WPWG to develop standard processes for enabling access to historic interval and billing quality interval usage data through web portals. *Submission of the Electronic Data Exchange Working Group's Web Portal Working Group's Solution Framework for Historical Interval Usage and Billing Quality Interval Use*, Docket No. M-2009-2092655, Tentative Order (Apr. 23, 2015).

PAIEUG, PPLICA, and WPPII are all *ad hoc* groups of commercial, institutional, and industrial customers of electricity that participate in various proceedings before this Commission, including the smart meter plan proceedings for the respective electric distribution companies ("EDCs").²

II. BACKGROUND

The Tentative Order requests comments on the findings therein, including the following directive with regard to web portals to be implemented by EDCs:

We agree with the WPWG that our intention was to provide, in an efficient manner, customer HIU and BQIU data in order to empower all stakeholders, including, but not limited to, consumers, EDCs, licensed EGSs, CSPs and other entities who have obtained customer consent regarding the release of the data. We would also like to clarify that only those entities with explicit customer permission, whether through the Eligible Customer Lists (ECLs), Letters of Authorization (LOAs), other direct contracts with the customer, etc., would be provided with the HIU and BQIU data. The Commission maintains that in order for the market to develop innovative products, this data must, with customer consent, be readily accessible to those parties outlined above.

Tentative Order, p. 9. The Industrial Customer Groups appreciate the Commission's recognition that measures must be adopted to protect customers' data from unauthorized disclosure through EDC web portals. The threat of unauthorized disclosure of confidential and sensitive customer usage data through web portals designed to facilitate data access for EGSs (and potentially other third parties) emerged as a litigated issue in the Commission's review of PPL's Supplier Portal, which PPL proposed as part of its Smart Meter Technology Procurement and Installation Plan filed on June 30, 2014 ("PPL SMPI" or "2014 SMPI"). *Petition of PPL Electric Utilities Corporation for Approval of its Smart Meter Technology Procurement and Installation Plan*, Initial Decision, Docket No. M-2014-2430781 (April 30, 2015), p. 1 (herein after "PPL Smart Meter I.D."). An evidentiary record has been developed in that proceeding that addresses the

² The positions set forth herein reflect the collective views of the intervention groups and do not necessarily reflect the views of each individual member.

data security concerns presented by web portals. In accordance with the PPL Smart Meter I.D., the Commission should reference the record developed through the PPL smart meter proceeding as a model of the measures necessary to protect customers from unauthorized disclosure of HIU and BQIU data through EDC web portals. To that end, the Industrial Customer Groups provide here a summary of the background and issues in that matter.

Prior to filing its 2014 SMPI, PPL introduced a pilot version of the Supplier Portal in 2012. *See* PPL Smart Meter I.D., p. 5; *see also* *Petition of PPL Electric Utilities Corporation for Approval of its Smart Meter Technology Procurement and Installation Plan*, PPLICA Main Brief, Docket No. M-2014-2430781 (January 13, 2015), p. 3 note 2 (hereinafter "PPLICA Smart Meter M.B."). Upon review of the pilot program, PPLICA raised concerns regarding the security of sensitive customer usage data, including both the lack of a tracking mechanism allowing interested parties to review historical event logs of activity through the Supplier Portal and the inadequacy of limiting customer authorization screening to verification of a correct customer account number.³ *See id.* at 8. During informal discussions between PPLICA, PPL and PUC representatives, the parties agreed that PPL's Supplier Portal was consistent with current PUC policies authorizing EDCs to disclose customer usage data upon presentation of a correct customer account number, but, as proposed by PPLICA, must be modified to record and maintain event logs. *See id.*

Pursuant to the prior discussions, PPL filed its 2014 SMPI with a plan to expand the pilot into a comprehensive Supplier Portal. *See id.* PPLICA intervened in the proceeding and, through discovery and cross-examination, confirmed that PPL had modified the Supplier Portal to maintain event logs. *See id.* However, PPLICA also observed that PPL intended to review

³ For many members of the Industrial Customer Groups, customer usage data constitutes highly sensitive and confidential information. For such entities, customer usage data reflects proprietary manufacturing schedules and operations, such that publication of the data would confer a significant advantage to competitors.

customer requests for event logs on a case-by-case basis and proceeded to recommend that PPL remove uncertainty by developing clear protocols confirming the factors and circumstances that would result in denial of a customer request for event log data. *See id.* at 13.

With regard to the Commission's policies authorizing EDCs to disclose customer usage data to an EGS in possession of the customer's account number, PPLICA recommended that the Commission review its current data privacy policies to more appropriately deter unauthorized access to customer usage data. *See id.*

On April 30, 2015, Administrative Law Judge ("ALJ") Susan D. Colwell issued the I.D. agreeing that the issues raised by PPLICA were reasonable, but determined that such issues should be addressed on a statewide basis in the instant proceeding instead of through PPL's SMPI docket. *See PPL Smart Meter I.D.*, p. 59. While PPLICA filed Exceptions supporting resolution of the issues as relevant to PPL's SMPI in that proceeding, PPLICA agrees that both issues are also critical towards ensuring that web portals implemented by all EDCs limit disclosure of customer usage data, such as HIU and BQIU data, to EGSs or other entities with explicit customer authorization. *See Petition of PPL Electric Utilities Corporation for Approval of its Smart Meter Technology Procurement and Installation Plan*, PPLICA Exceptions, Docket No. M-2014-2430781 (May 20, 2015), p. 5 (hereinafter "PPLICA Smart Meter Exceptions"). Accordingly, PPLICA hereby requests that the Commission: require all EDCs to: (1) configure web portals to maintain event logs for each request for HIU or BQIU data submitted by an EGS or third party; (2) develop protocols identifying the retention period and providing customers with reasonable access to the event log data from an EDC web portal; and (3) require EDCs to obtain explicit customer authorization prior to disclosing HIU or BQIU data.

A. COMMENTS

a. **The Commission Must Require EDCs to Ensure that Web Portals Maintain Event Logs of All EGS or Third Party Requests for HIU or BQIU Data and Develop Protocols Affirming the Factors to Review Prior to Providing Customers With Event Logs of Web Portal Data Requests.**

As observed in the PPL proceeding, implementation of a web portal without capacity to maintain event logs would expose customers to risk of unauthorized disclosure of sensitive and confidential HIU and BQIU data without any opportunity to track or review activity through the web portal. In order to provide backstop protection, the Commission must ensure that interested parties have the means to investigate any suspected incidents of unauthorized data access.⁴

Although the Tentative Order acknowledges customers' right to restrict access to HIU and BQIU data to be made available through web portals, the Commission must further provide means for customers and the Commission's staff to review potential violations of customers' data privacy rights occurring as a result of the new technology. Adoption of the recommendations set forth in the Tentative Order would require EDCs to implement web portals through which EGSs can directly and automatically access HIU and BQIU data without need for any affirmative response from the EDC.⁵ By way of comparison, standard Electronic Data Interchange ("EDI") communications technology, as currently relied upon by most EDCs, requires a two-way communication where the EDC must affirmatively transmit usage data to the requesting EGS. Particularly as the required customer authorization for accessing HIU and BQIU remains uncertain, the Commission must hold EDCs accountable for maintaining a record of EGS or

⁴ As discussed below, the Industrial Customer Groups are also advocating for the Commission to take proactive precautions to minimize the risk of unauthorized data access.

⁵ See Tentative Order, p. 4, 12 (requiring implementation of System-to-System web portal technology within 12 months of adoption of a Final Order).

third party use of a web portal in order to preserve some capacity to review or investigate suspected unauthorized access.⁶

As discussed above, informal discussions between PPLICA, PPL and Commission staff resulted in a resolution whereby PPL agreed to modify its Supplier Portal to maintain an event log of any requests for customer usage data for a period of three years. *See* PPLICA Smart Meter M.B., p. 8. As described by PPL, the Supplier Portal would include the following capabilities:

Every time a user submits a request for any data available on the portal the request is logged with the unique user name, supplier name, date/time stamp, and customer account number and recorded as successful or unsuccessful attempts.

See PPLICA Smart Meter M.B., p. 8; *see also* PPL Smart Meter I.D., p. 59. PPLICA generally supports the event log procedures proposed by PPL, except that the proposed process would rely on an unspecified case-by-case analysis to determine whether to grant each customer request for event log data. *See* PPLICA Smart Meter M.B., p. 8. To provide customers with the necessary assurance that requests for event log data will be timely honored, PPLICA advocated for PPL to develop specific protocols identifying the factors to be considered in responding to customers' requests for event log data through the Supplier Portal. *See* PPLICA Smart Meter M.B., p. 13.

Importantly, the presiding ALJ issued an I.D. finding PPLICA's proposed modification to be "reasonable." *See* PPL I.D., p. 61. However, rather than advise the Commission to adopt PPLICA's proposed modifications to PPL's Supplier Portal, the ALJ determined that such issues should be addressed on a statewide level through the Final Order in the above-captioned

⁶ As further discussed below, considerable uncertainty exists regarding the EDC's responsibility to protect customers' usage data. While the Tentative Order ostensibly requires an EDC to affirm explicit customer authorization prior to disclosing HIU or BQIU through a web portal, the Commission has previously determined that EGSs should be granted access to customer usage data without an affirmative showing of customer authorization. *See Electric Generation Supplier Access to Restricted Customer Accounts*, Secretarial Letter, Docket No. M-2009-2082042 (August 20, 2010) (hereinafter "EGS Access Secretarial Letter").

proceeding.⁷ *Id.* Accordingly, the Industrial Customer Groups hereby recommend that the Commission require EDCs implementing web portals to include the capacity to maintain event logs capturing each attempt to obtain customer data through the web portal and develop protocols ensuring that customers have reasonable access to event log data.

b. As Part of the Standards for EDC Web Portals, the Commission Should Modify or Clarify the Requisite Customer Authorization for Disclosure of HIU or BQIU Data.

The Commission should resolve the apparent controversy between the definition of customer authorization set forth in the Tentative Order and prior policies authorizing an EDC to furnish customer usage data to an EGS in possession of the customer's account number. The Commission has previously determined that customer authorization can be demonstrated by presentation of a customer account number. This policy fails to meet the data privacy standard articulated in the Tentative Order and must be modified to meet customers' data privacy expectations.

The Tentative Order purports to limit access to customer's HIU or BQIU data to entities with "explicit customer authorization." *See supra*, p. 2 *citing* Tentative Order, p. 9. To the contrary, the Commission has previously absolved EDCs of any duty to establish explicit customer authorization. *See* EGS Access Secretarial Letter, p. 2. As this policy would unreasonably place the burden of affirming compliance with the critical regulatory objective of protecting data privacy solely upon the EGS, the Industrial Customer Groups recommend that the Commission clarify that the requisite customer authorization applicable to disclosure of HIU

⁷ In addition to raising these issues in the instant statewide proceeding as a member of the Industrial Customer Groups, PPLICA also filed Exceptions to the I.D. on May 20, 2015, accepting the ALJ's recommendation to raise the web portal issues in the above-captioned proceeding, but further claimed that potential for additional action through the adoption of new regulations or policies through the above-captioned docket should not forestall, or lessen the necessity for, a response to the PPL-specific impacts raised by PPLICA. *See Petition of PPL Electric Utilities Corporation for Approval of its Smart Meter Technology Procurement and Installation Plan*, PPLICA Exceptions, Docket No. M-2014-2430781 (January 13, 2015), p. 5. Parties' Reply Exceptions and the Commission's Final Order remain pending.

or BQIU data through a web portal must be explicitly granted in the form of an electronic customer communication or other written record transmitted to the EDC evidencing customer authorization.

Alternatively, in designing the web portals, a functionality could be added for the customer to confirm that access is granted. This functionality could be similar to the emails that are generated whenever a customer modifies a password on a secured website. This functionality could be enabled for all accounts or, alternatively for only those accounts that have chosen to restrict data access.

III. CONCLUSION

WHEREFORE, 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,

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Dated: May 26, 2015