



NRG Energy Inc.
2929 Arch Street, Suite 1902
Philadelphia, PA 19104

May 15, 2024

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**RE: Guidelines for Eligible Customer Lists
Docket No. M-2010-2183412**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is an electronic copy of Comments in the above-referenced proceeding on behalf of NRG Energy, Inc.

If you have any questions regarding this filing, please direct them to me at 301.509.1508 or via email at lgibbons@nrg.com.

Sincerely,

A handwritten signature in blue ink that reads "Leah Gibbons". The signature is written in a cursive, flowing style.

Leah Gibbons
Senior Director, Regulatory Affairs

Electronic CC:
Office of Competitive Market Oversight at ra-OCMO@state.pa.us

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Guidelines for Eligible Customer Lists : Docket No. M-2010-2183412
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COMMENTS OF NRG Energy, Inc.

Date: May 15, 2024

Comments of NRG Energy, Inc.

NRG Energy, Inc. (“NRG”) respectfully submits these Comments in response to the Pennsylvania Public Utility Commission (“Commission” or “PUC”) Secretarial Letter of March 1, 2024 seeking input from stakeholders regarding the guidelines for Eligible Customer Lists (“ECLs”) that Electric Distribution Companies (“EDCs”) make available to Electric Generation Suppliers (“EGSs”) and that Natural Gas Distribution Companies (“NGDCs”) make available to Natural Gas Suppliers (“NGSs”). The Commission’s guidelines require that the ECLs include uniform categories of customer information to be made available to EGSs/NGSs (“suppliers”) by the EDCs/NGDCs (“utilities”) and provide customers the option to restrict the inclusion of their information on the ECL.

Customer information provided on the ECL includes customer names and addresses, utility account numbers/ChoiceIDs, historical consumption, capacity tags and shopping status, among other invaluable information. It is available for both residential and non-residential customers (although not consistently). The ECL enables suppliers to operate efficiently and develop and market products and services to customers designed to meet their individual needs. The ECL also makes it convenient for energy customers to enroll with the supplier of their choice, particularly when they are away from their homes, without additional follow up contact by marketers to obtain the information needed to complete an enrollment.

To ensure the ECLs remain current, the utilities must conduct a solicitation every three years to refresh their lists. The triennial solicitations allow customers to restrict the inclusion of their information on the ECL provided to suppliers.

Customers who do not respond to a solicitation are automatically included in the ECL. The Commission adopted this opt out feature because it recognized that the regulated utilities – as the historical monopolies that serve all customers by default – possess all customer information, including information customers need to enroll with a supplier. The Commission understood that the opt out mechanism

was essential toward leveling the competitive playing field by creating a useful list that included *most* customers so that suppliers could more easily identify eligible customers and market their products and services to them. Over the years the regulated utilities have largely relied on solicitations to customers via USPS, but the advent of e-Billing has enabled electronic communications to those customers who have elected it. Duquesne Light requested, and the Commission approved (for 2021 and again in 2024), the ability to expand its electronic solicitation to *any* customers for whom it has an email address.

In addition to addressing the Commission's request for comments concerning the EDC/NGDC's use of electronic methods to communicate with customers about the ECL, NRG will also describe the critical role of the ECL in facilitating competition now and into the future. We also explain the importance of protecting the data contained in the ECL and share NRG's efforts to do so. Finally, we offer recommendations for improvements, including measures to ensure that utilities are not using the triennial solicitations to encourage customers to restrict the release of their information to suppliers.

Who We Are

NRG is the leading essential home services company offering a unique whole-home experience to millions of North American customers. Our family of brands brings the connected future into reality through a unique value proposition centered around smarter energy, innovative services, and essential connections with the home. As a Fortune 500 company, NRG has provided leadership in competitive energy markets by creating a platform that offers consumers more control over their energy use and home automation and protection, especially with its newly acquired tech-forward smart home solutions. NRG serves 8 million customers across North America, including a significant share of retail energy customers in Pennsylvania. So significant that NRG has three offices – in Philadelphia, Pittsburgh and Wyomissing – staffed with hundreds of employees that support its

business. NRG's retail energy subsidiaries include EGSs and NGSs, which serve customers across the Commonwealth.¹

The ECL is Essential to Facilitating Customer Choice

The PUC issued guidelines for providing ECLs to licensed EGSs in 2011 and to licensed NGSs in 2013. These lists include various data elements that are essential to suppliers' efficient participation in Pennsylvania's competitive energy markets and to customers' convenient exercise of their right to choose, including customer name, service and billing addresses, account number/ChoiceID, tariff rate class and schedule, rate subclass/subcode, meter read cycle, load profile group, transmission/capacity obligation, POLR/shopping status, 12 months monthly consumption, on peak/off peak consumption (if available), 12 months of monthly peak demand, interval meter indicator, net metering indicator, and sales tax status. ECLs are only accessible through each utility's secure supplier portal. To access the ECL, suppliers licensed by the PUC and certified to do business with the utility log into the password-protected portals to download the most current ECLs, which are updated at least monthly. Suppliers are obligated to protect the ECLs they obtain from the regulated utilities.

Over a decade of experience with the ECLs has demonstrated that, true to their initial intent, the ECL has fostered retail competition. The availability of the ECL has eliminated, or at least significantly reduced, a key barrier to customer choice by making it possible to access customers' utility account number/service number/ChoiceID ("customer number") – which is the key piece of information required for customers to enroll for energy supply service – when they are away

¹ NRG's licensed retail companies include: Direct Energy Business, LLC (Docket No. A-11025 and A-125072); Direct Energy Business Marketing, LLC (Docket No. A-2013-2368464 and A-2013-2365792); Direct Energy Services, LLC (Docket No. A-110164 and A-125135); Energy Plus Holdings LLC (Docket No. A-20092139745); Gateway Energy Services Corporation (Docket No. A-2009-2137275 and A-2009-2138725); Green Mountain Energy Company (Docket No. A-2009-2139745 and A-2017-2583732); Independence Energy Group LLC d/b/a Cirro Energy (Docket No. A-2011-2262337 and A-2013-2396449); Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business/NRG Retail Solutions (Docket No. A-2010-2192350 and A-2015-2478293); Stream Energy Pennsylvania, LLC (Docket No. A-20102181867 and A-2012-2308991); and XOOM Energy Pennsylvania, LLC (Docket No. A-2012-2283821 and A-2012-2283967).

from home. The customer number for each utility varies in length from 9 to 20 digits and is typically found somewhere on customers' utility bills.

Before the ECL was made available to licensed suppliers, their sales efforts focused almost entirely on reaching customers at home (i.e., telesales, door-to-door, direct mail), where they have ready access to their utility bills. The advent of the ECL shifted that focus enabling customers to shop for retail energy supply when they are *away* from home, the same way they shop for cell phone service or any number of other products and services as they go about their daily lives. Customers do not memorize their utility customer numbers or carry their utility bills around while they are away from home. The ECL has reduced the burden on customers of being solicited at home and enabled sales channels that meet customers where they shop, in public spaces where they are free to engage sales agents at their discretion and walk away if they are not interested.

Beyond enabling customer enrollment, the ECL is an invaluable component in suppliers' efforts to develop products and services designed for specific customers – both residential and non-residential. The ECL is an essential element of NRG's AI pipeline, ensuring our AI is accurate and ethical. The ECL dramatically increases our accuracy in presenting products to customers that are most applicable to each customer. It also ensures that we do not target ineligible customers or those that would not benefit from our products. For example, the data can be used to identify demand response and other virtual power plant ("VPP") opportunities for both large and small customers who may benefit from such products. In short, every piece of information included on the ECL today has value and can be used by suppliers to offer relevant products to specific customers that meet those customers' unique energy demand needs. Said another way, the ECL enables customers to receive offers most beneficial to them.

Most importantly, the value of the ECL has not diminished over time. It is arguably more valuable today, as suppliers have developed the capability to consume and

analyze the data and learn from it to create more relevant products for Pennsylvania's consumers. It is as necessary today as over a decade ago when the Commission first recognized its value in fostering Pennsylvania's competitive retail energy markets. NRG applauds the Commission's commitment to its competitive retail energy markets and urges it to continue supporting the ECL for all electricity and gas market customers.

ECL Data Must Be Protected

Access to the ECL cannot be taken for granted. The ECL contains sensitive information that must be protected to ensure customer privacy. As noted above, NRG's licensed retail suppliers rely heavily on the ECL for customer enrollment. We have built a robust quality assurance program designed to deliver quality sales and happy customers. Part and parcel of achieving this goal is protecting the ECL data while also facilitating its use by our sales agents. We leverage the ECL via NRG's sales technology enrollment application. NRG has invested heavily in this tool's development and continual process improvements to ensure the ECL is treated with care and maximum protection.

Our multilayered quality assurance program ensures that only a customer who consents to enroll can access our enrollment application, and that their information is protected. First, a sales agent must log into the system to access the enrollment platform. This enables us to identify the agent responsible for every single enrollment occurring on this platform. Second, once a customer agrees to enroll, the ECL can only be accessed if the customer agrees to our proprietary Driver's License ("DL") Scan. This ensures that only the customer standing before our agent can enroll the account associated with her name. Customers have responded positively to this requirement and view it as protection for them.

Our DL scan technology provides full data security and encryption of the information gathered, which is inaccessible to sales agents. It scans the front and back of the customer's driver's license and captures the name and address

information directly from the DL bar code. The customer's last name and Zip Code from the DL scan are used to query the ECL and must match the ECL data exactly to retrieve the customer's data. Third, a sales agent does not have the ability to scroll or view the ECL if there is no match. If a search is successful, the customer's name and address appear for the customer to confirm. Fourth, an additional STOP pop-up screen forces the agent and customer to verify that the correct customer was found in ECL, again giving confidence to the customer that we are committed to enrolling the correct account. Fifth, our system hides the utility account numbers from view. If the customer agrees to proceed with enrollment, the data from the ECL is automatically populated into the enrollment form, with the account number masked as a series of "x's". Sixth, the enrollment platform flags all enrollments including customer information obtained from the ECL. The system will also flag whether certain data fields are modified during enrollment. These flags are useful in cases where we need to investigate potential issues after enrollment is completed. Finally, our post-enrollment survey, other welcome communications, and many automated alerts help reveal any unusual or suspicious activity, which we then research and review. These tools bring potential misuse to our attention before impacting customer accounts.

While our technology and processes are robust and designed to ensure valid enrollments by consenting customers, no technological solution is foolproof. NRG has also instituted an ECL 3 Strikes Policy that penalizes agents who misuse the ECL. Penalties range from ECL access suspension to agent dismissal from NRG's program. NRG's quality assurance program protects the ECL and our customers' data privacy. It is a best-in-class program designed to ensure quality sales and satisfied customers. While NRG is not aware of any notable misuse of the ECL since it became available to the market, NRG recommends that the Commission consider a requirement that all suppliers accessing the ECL implement a robust program to protect the data it contains.

Triennial Solicitations are Not a Call To Action

NRG does not oppose the use of electronic communications by the regulated utilities to conduct their triennial opt-out solicitations. Consumers overwhelmingly rely on electronic means to obtain information and communicate with their service providers. Electronic communications reduce costs and are simply more efficient.

That said, it is critical that the Commission exercise strong oversight over the messages and even the layout of the electronic communications sent to customers by the regulated utilities. As the dominant suppliers in the market, viewed by most customers as “the” energy supplier, the impact of *how* the regulated utilities communicate and *what* they say to customers cannot be overstated.

As a case in point, PPL recently sent its solicitation by email to customers with this bold, all-cap text subject line: “**RESPONSE REQUESTED: your options regarding information provided to energy suppliers**”. It then led with a headline: “**Here’s why and how to opt out.**”

PPL’s message quickly pivots to a call to action that effectively encourages customers to opt out of PPL’s ECL. The message states boldly: “**You have the right to withhold your information from suppliers and opt out of the list.**” It then provides a prominently centered “one click” button to enable a customer to opt out easily. The button is labeled: “**Opt Out Now**”. Further past the “one click” response button, the message provides the *last* option (not bolded or highlighted in any way): “if you want us to share your information with licensed suppliers, no action is required.”²

Rather than simply informing customers of the opportunity to opt out of the ECL, PPL’s hyped message can be read as an urgent call to opt out. The entire

² Please see Appendix A for a copy of PPL’s 2024 triennial opt-out notice.

messaging and format hint at dire consequences if customers fail to save themselves quickly. It is inappropriate, discriminatory, and anticompetitive.

Regulated utilities must be prohibited from urging or even appearing to urge customers to exclude their information from the ECL. The triennial solicitation is not a campaign to increase opt out response rates. The goal is simply to ensure that customers know they can opt out of the ECL and how to do so.

By stating to customers that a **RESPONSE IS REQUESTED**, the utilities effectively encourage customers to opt out of the ECL, as that is the **only** response that is possible via the one-click button. Encouraging customers to remove themselves from the ECL undermines the very purpose of the ECL – fostering competition. The fewer customers on the list, the less useful it is. Moreover, it ultimately serves to frustrate customers who find themselves interested in enrolling with a supplier when they are away from home, only to find they cannot obtain the one piece of information they need to sign up because they were encouraged by the regulated monopoly to remove their name from the ECL.

The ECL has been and continues to be invaluable for fostering competition in Pennsylvania. It was established as an opt-out list precisely because that approach ensures that most customers would be included. Customers should have the ability to opt out. But it is simply unfair and anticompetitive to permit utilities to subtly or blatantly advocate for customers to do so. The utilities are the direct beneficiaries of customers' inability to take advantage of their shopping options. And it is customers who are harmed by not being included. Customers are denied the convenience of enrolling when they encounter an attractive offer. They are denied the opportunity to receive offers designed to meet their specific energy needs, be they savings or budget stability or renewable energy options or plans designed to reduce their overall energy bills. NRG urges the Commission to direct the Office of Competitive Market Oversight ("OCMO") to establish a stakeholder process to develop a standardized triennial notice with language that must be reviewed and

approved by the Commission prior to the next solicitation. The notice must be neutral and not disguised advocacy.

Conclusion

The ECL is essential to facilitating customer choice and competition in Pennsylvania. It enables efficient participation in the market by licensed retail suppliers, and it benefits consumers by giving them access to products designed to meet their unique needs. It also makes it convenient for them to enroll for energy supply service with the supplier and product they choose while away from home. NRG urges the Commission to continue supporting the ECL in electric and gas markets. Because protecting customer privacy is paramount, the Commission should consider requiring all suppliers that access the ECL to implement a robust program to protect the data it contains. Finally, the Commission should establish a stakeholder process led by OCMO to develop a standardized triennial notice with language that must be reviewed and approved by the Commission before the next solicitation. NRG appreciates the opportunity to share its perspective on the ECL, and we look forward to participating in any future proceedings on this topic.

Respectfully submitted,

May 15, 2024

/s/ Leah Gibbons

Leah Gibbons
Senior Director, Regulatory Affairs
NRG Energy, Inc.

APPENDIX A

APPENDIX A

From: PPL Electric Utilities <email@customerprograms.pplelectric.com>

Date: April 5, 2024 at 2:36:33 PM EDT

To:

Subject: RESPONSE REQUESTED: your options regarding information provided to energy suppliers

Reply-To: PPL Electric Utilities <reply-fe6b1570756401747511-2749803_HTML-747342759-1019269-0@customerprograms.pplelectric.com>

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PPL Electric Utilities

Important Notice

We're required to provide certain customer account information to electric generation suppliers. Here's why and how to opt out.

What is the "eligible customer list?"

In Pennsylvania, you can shop around and choose a generation supplier. As a public utility, and your default power supplier, we must maintain an "eligible

APPENDIX A

customer list” that contains customer information such as name, account number, historic usage and addresses. Telephone numbers are not included.

We are required to make this information accessible to licensed electric generation suppliers through a secure link. Suppliers can use this information to provide you information about their products and services. If you choose to shop, this information can also aid in setting up your account if you choose a competitive supplier.

What are my options?

You have the right to withhold your information from suppliers and opt out of the list. If you do, you will be responsible for providing this information to suppliers during the shopping process. Whatever you decide, please note that suppliers are required to keep your information confidential and may not share your information with others.

[Opt Out Now](#)

Other ways to opt out: visit pplelectric.com/ec or call [1-866-849-0916](tel:1-866-849-0916).

Please note: Even if you previously opted to exclude your information, you MUST reaffirm your preference.

If you want us to share your information with licensed suppliers, no action is required. Please note that we will never release customer telephone numbers.

What happens next?

If you choose to opt out, your name will be withheld from the list, and we will not provide your information to suppliers.

1. If you change your mind about your decision, you can contact us at any time to either opt out or be included in the list.

APPENDIX A

2. We always encourage customers to use our Price to Compare to shop for the best deal on their energy supply. For more information:

ppllectric.com/shopsmart.

Connect with us



[Forward this email to a friend](#)

Please do not reply to this automated email. This mailbox is not monitored

[Update your email address](#) or [unsubscribe](#) from these messages. This does not change the email address for your PPL Electric Utilities online account.

PPL Electric Utilities | 2 N. 9th St. | Allentown, Pennsylvania | 18101

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