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May 15, 2024

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Retail Energy Supply Association's ("RESA") Comments with regard to the above-referenced matter. If you have any questions, please contact me.

Sincerely,



Deanne M. O'Dell

DMO/lww  
Enclosure

cc: Office of Competitive Market Oversight ([ra-OCMA@pa.gov](mailto:ra-OCMA@pa.gov))  
Daniel Mumford w/enc.  
Kriss Brown w/enc.  
Todd Stewart, Esq. w/enc.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

: **Guidelines for Eligible Customer Lists** : **Docket No. M-2010-2183412**  
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**COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION (RESA)**

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Now Comes the Retail Energy Supply Association (“RESA”)<sup>1</sup> and hereby submits its Comments in response to the Secretarial Letter of the Pennsylvania Public Utility Commission (“Commission”) dated March 1, 2024<sup>2</sup> regarding the use of electronic solicitations by utilities to permit consumers to update their preferences regarding the appearance of their utility account information on the Eligible Customer Lists (“ECLs”). ECLs are utilized exclusively by Commission licensed electric generation suppliers (“EGSs”) and natural gas suppliers (“NGSs”) (collectively “Competitive Suppliers”) for the sole purpose of accessing critical information necessary to develop competitive supply offers to customers. For consumers who have not affirmatively opted out of providing their information on the ECL, the information provided includes address, utility account number, rate class and load information. Members of RESA include Pennsylvania licensed EGSs and NGSs and they have a direct interest in changes to the ECLs that may have a negative impact on their ability to provide offers and services to end user customers.

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<sup>1</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

<sup>2</sup> See 54 Pa.B. 1460

As set forth more fully below, RESA fully supports the use of electronic means for consenting consumers to communicate important aspects of their utility account services. However, because of the dominance of default service supply in Pennsylvania and its provision by the former monopoly utilities, the Commission must maintain ultimate approval authority regarding the final content of the specific messaging. The Commission’s active role in ensuring the utility messaging does not convey any misimpressions about the purpose or intent of the ECL and/or the role of competitive suppliers is critical to supporting the ability of Competitive Suppliers to develop and make offers to consumers. For these reasons, RESA recommends the Commission adopt specific language guidance as to permissible content for the notices and implement a process for the utilities to file a draft of their proposed content for review and approval with the Commission after an opportunity for stakeholder feedback is permitted.

## **I. INTRODUCTION AND BACKGROUND**

In its Secretarial Letter, the Commission seeks comments from interested parties regarding the guidelines for the ECLs that Electric Distribution Companies (“EDCs”) and Natural Gas Distribution Companies (“NGDCs”) (collectively, “Utilities”) make available to Competitive Suppliers. The Commission is specifically interested in comments concerning the use of electronic methods to deliver communications to customers concerning the ECL and the use of electronic methods for customers to respond to the Utilities with their ECL preferences.<sup>3</sup> The Commission’s inquiry is a result of various EDC petitions since adoption of the final ECL electric guidelines in 2014 whereby the Commission approved requests to permit the EDCs to utilize electronic methods to provide the opportunity for distribution customers to affirmatively

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<sup>3</sup> 54 Pa.B. 1460.

opt out of having their information included on the ECL.<sup>4</sup> Most recently, Duquesne Light Company (“DQE”) requested permission to conduct the required triennial solicitation through electronic means for all customers who had consented to receive electronic communications from the utility. The Commission’s Order approving DQE’s Petition solicits comments regarding the efficacy of email solicitation for ECLs on a statewide basis and the wisdom of adjusting the Interim Guidelines applicable to ECLs accordingly.<sup>5</sup> In response, RESA offers the following comments.

## **II. COMMENTS**

### **A. Electronic Communications Generally.**

RESA firmly believes that we should no longer consider electronic communications with customers to be new technology or beyond the norm. In almost every industry, including banking and other financial services, customers have been safely communicating with businesses through a variety of electronic means. It is clear that electronic communications are the most efficient and effective manner of ensuring that customer responses are appropriately recorded in customer records. RESA supports efforts to bring opportunities for more effective and efficient customer engagement, with appropriate safeguards, that can result in a better experience and better service for customers. Accordingly, RESA supports the specific request that EDCs and NGDCs, be permitted to conduct ECL solicitations through any of the electronic means that customers have consented-to, be that email, text, or some other method. RESA would also support consideration of extending the same consideration for their communications with customers. Requiring

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<sup>4</sup> See, e.g., *Petition of Duquesne Light Company for Clarification of Interim Guidelines for Eligible Customer Lists Final Order entered October 23, 2014*, Docket No. P-2023-3043362, Opinion and Order entered January 18, 2024; and, *Petition of PPL Electric Utilities Corporation for Limited Waiver of Service Requirements of the Eligible Customer List Triennial Solicitation*, Docket No. P-2020-3022803, Opinion and Order entered February 25, 2021.

<sup>5</sup> *Id.* at 8.

Utilities to notify Competitive Suppliers of the electronic communications preferences of Competitive Supplier customers (perhaps with an additional field added to the ECL) would offer Competitive Suppliers the same advantages being extended to the Utilities and provide more coordinated expectations for the consumer about where they can anticipate messaging regarding utility service whether provided by the Utilities or the Competitive Suppliers.<sup>6</sup>

**B. The Message.**

It has not gone without notice, however, that some Utilities have taken it upon themselves to use email and other media to scare customers into restricting the release of their information, suggesting that a customer allowing their personal information to be used on the ECL was in effect giving such information to scammers and thieves.<sup>7</sup> Such scare tactics are completely unfounded as the Competitive Suppliers are bound by Commission regulations regarding their handling of customer information<sup>8</sup> and the ECLs are only made available to licensed Competitive Suppliers for the specified purpose of developing competitive offers. Utility messaging to the contrary, whether overt or implicit, should NEVER be countenanced by the Commission. The Commission has concluded that the ECL provides a salutary benefit to customers and has provided safeguards that allow customers to easily express their desire to be

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<sup>6</sup> Generally, the Utilities do not provide Competitive Suppliers information about the electronic communications preferences for their distribution customers or email contact information for the distribution customer. The exception is the Commission's directive to PPL to provide the opportunity for a customer electing to participate in the Standard Offer Program to consent to the release of his or her phone, text or email information to the chosen EGS SOP provider. *Petition of PPL Electric Utilities Corporation for Approval of Its Default Service Plan For the Period June 1, 2021 Through May 31, 2025*, Docket No. P-2020-3019356, Opinion and Order entered December 17, 2020 at Ordering Paragraph No. 13.

<sup>7</sup> As an example, PPL's March 2024 "Option to Prevent Disclosure of Account Information" generated significant enough concern among consumers that a local news segment "8 On Your Side" provided additional information regarding the purpose of the ECL and its background. *See* <https://www.wgal.com/article/letter-says-ppl-is-releasing-your-personal-information/60205912>

<sup>8</sup> *See*, 52 Pa. Code 54.8 and 62.78 both of which restrict the release of private customer information to a third party. EGSs and NGSs are not "third parties" within the meaning of these regulations but these regulations govern their release of customer information.

kept off the ECL if such is their freewill choice. While RESA could support providing customers with an electronic ability between the triennial solicitations to temporarily, or permanently remove some, or all of their information from the ECL, when a utility includes innuendo and scare tactics in its communications with customers, it has breached the duty of reasonable service. Commission precedent is clear that communications with customers must be truthful, and electronic communications are not immune from this requirement. Under no circumstances should the Commission permit the use of communications mandated by the Commission in a thinly veiled effort to promote an anti-supplier/anti-competition agenda. For this reason, as discussed further below in Section D, any modification to the ECL guidelines must include restrictions on the content of the triennial notice materials, with an opportunity for review and a requirement for Commission final approval, regardless of the medium used to communicate with customers.

**C. Scope of Information.**

The ECL allows certain customer information to be shared exclusively with Competitive Suppliers, who are licensed by the Commission and, as discussed previously, are required by the Commission's regulations to safeguard the information they receive from the ECL. Importantly, the information on the ECL includes basic information, such as name, address, account number, and usage information. The list does not include any financial or payment information related to any customer nor does it include any other personal information such as a social security number or account passwords. Thus, concerns that the ECL is made indiscriminately available to the public and contains the most sensitive of customer information are unfounded. On the contrary, customers whose full information is shared via the ECL, are able to receive communications that provide a pricing offer based on the correct rate class and/or usage. Such tailored offers are

particularly important in solicitations sent by mail where interaction with the customer is less likely.

#### **D. RECOMMENDATIONS**

Given the importance of the ECLs to support the ability of consumers to have access to the competitive market and the inherent opportunity, whether intentional or not, for Utilities to use Commission mandated messaging which is likely to be viewed by the consumer when delivered electronically, RESA urges the Commission to adopt the following requirements that must be implemented by Utilities for future solicitations of customers about maintaining their information on the ECL:

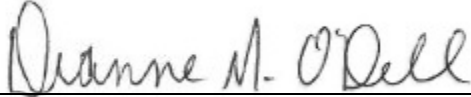
1. Utilities are prohibited from including any statements, whether directly or covertly, indicating that the availability of the customer's information on the ECL will expose it publicly.
2. Utilities must affirmatively state that only Commission licensed entities are able to access the customer's information on the ECL for the sole purpose of fostering their ability to develop competitive supply offers for the customer.
3. Utilities are required to file their draft customer messaging with the Commission and provide stakeholders be provided an opportunity for comment.
4. The Commission will review and approve the final messaging via a process to be determined by the Commission, i.e. formally at a public meeting or through delegated authority to the Office of Competitive Market Oversight.

In addition to the above recommendations, RESA also supports requiring Utilities to notify Competitive Suppliers of the electronic communications preferences of Competitive Supplier customers (perhaps with an additional field added to the ECL). Requiring the sharing of this information would offer Competitive Suppliers the same advantages being extended to the Utilities and provide more coordinated expectations for the consumer about where they can anticipate messaging regarding utility service whether provided by the Utilities or the Competitive Suppliers.

**E. CONCLUSION**

RESA appreciates the opportunity to submit its initial comments to the Commission regarding the ECLs as they play a very important role in the ability of consumers to receive attractive competitive supply offers.

Respectfully Submitted,



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