

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held August 13, 1998

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
David W. Rolka  
Nora Mead Brownell

Interim Guidelines Regarding Notification by  
an Electric Generation Supplier of Operational  
Changes Affecting Customer Service and  
Contracts

Docket No. M-00960890F.0013

**ORDER**

On February 26, 1998, the Commission entered a tentative order setting forth proposed interim guidelines to ensure that timely information is provided to customers when their electric generation supplier (EGS) makes an operational change that affects their service (Tentative Order). The Tentative Order was issued in response to negative reports from customers received through the Commission's Electric Competition Hotline and from members of the Pilot Implementation Committee about Electric Generation Suppliers (EGSs) abruptly changing the scope of their business operations. This Tentative Order specifically proposed notice requirements to alert customers and members of the public about (1) the cessation of business operations by an EGS, (2) the transfer of customers from one EGS to another by a license transfer or by an assignment of customers contracts to another supplier, and (3) an EGS's refusal to provide service to

additional customers in a class, or the EGS's refusal to provide service to a class of customers that the supplier had been licensed to serve.

A fourteen day comment period was established. Comments were filed by Mid-Atlantic Power Supply Association (MAPSA), the Office of Consumer Advocate (OCA), Allegheny Energy Solutions (AES), Enron Power Marketing, Inc. (Enron), NORAM Energy Management, Inc. and Electric Clearinghouse, Inc. (together, NORAM), Pennsylvania Power & Light Company (PP&L) and PECO Energy Company (PECO). The Pennsylvania Gas Association filed a letter in lieu of comments in which it declined to comment on the substance of the Tentative Order.

The Commission thanks all the commenters. Because the majority of the comments raised the same issues, each argument in support of the comment is not individually discussed. Comments that raised issues not directed specifically to the subject matter of the Tentative Order are not discussed. The Commission has carefully considered the comments and revised the guidelines accordingly. The revised guidelines appear in the appendix to this Order.

**I. Cessation of Business- Notice to Consumer Contacts Who Are Not Customers**

In the Tentative Order we noted that in the Final Order on Interim Licensing Requirements for Electric Generation Suppliers, Order entered February 13, 1997 at Dkt. No. M-0096890, F.0004, we required an EGS intending to cease operations to notify the Commission, the customers, and the electric distribution company (EDC) in whose territory the EGS was providing service 30 days prior to the cessation of business operations. In the Final Rulemaking Order,

Licensing Requirements for Electric Generation Suppliers, 52 Pa. Chapter 54 and 3.551, Order entered April 24, 1998, we adopted a regulation requiring that a supplier that wishes to cease operations must provide notice to the Commission, its customers and the default EGS, i. e., the provider of last resort, "in each of the three billing cycles preceding the effective date of the abandonment."

In the Tentative Order, we proposed that notice be expanded to include notice to the public and to consumers who contacted or were contacted by the EGS within a two week period prior to its decision to halt business operations.

To insure notice to all persons who might be affected by the EGS's cessation of business operations, the Commission now proposes that an EGS also be required to publish legal notice in local newspapers announcing the supplier's intention to cease business operations. Such notice should be published 30 days prior to the EGS ceasing business operations. Also, an EGS, ceasing operations, must provide actual notice to persons who had contacted the EGS, or had been contacted by the EGS for service in the two-week period prior to its decision to cease operations. Such actual notice should be given as soon as practicable after the EGS has made the decision to cease business operations.

Tentative Order, p. 3.

Comments related to newspaper notice requirement and the notice to consumer contacts are discussed seriatim.

#### **A. Newspaper notice on the cessation of business**

In regard to the newspaper notice requirement, the comments were split. The OCA clearly supports the newspaper notice requirement, OCA, p. 4; AESolutions was not opposed to the newspaper notice requirement, AES, p. 1; and PP&L indicates that the legal notice publication requirement for total cessation of business seems reasonable and parallel. PP&L, p. 4.

In contrast, MAPSA sees as burdensome and unreasonable any requirements on a supplier halting business in addition to those set out in the Commission's final order on licensing requirements, MAPSA, p. 2. Enron states that the newspaper notice requirement is unwarranted, that such notice will cause customer confusion, and along with actual notice to consumer contacts, works as an exit barrier which will stifle the development of the competitive electric generation market. Enron, pp. 3-4.

NORAM requests that the newspaper notice requirement be either abandoned or clarified as to the type and extent of newspaper notice required. NORAM, pp. 5-6. Specifically, NORAM requests that the Commission make the newspaper notice requirement a legal notice requirement, and specify that the notice should be provided in the same newspapers in which notice of the application appeared. NORAM also requests that the Commission should direct the length of time that the legal notice should appear. NORAM, p. 6.

The Commission believes that newspaper notice of an EGS's ceasing business operations provides useful information about the electric generation market to the consuming public. In light of the extensive and intensive advertising and marketing campaigns that were undertaken by many electric generation suppliers upon initiation of their service in the Commonwealth, it does not seem unreasonable or burdensome to require a supplier to provide notice to the general public of its intent to abandon business operations by publication of a legal notice.

In response to NORAM's request for clarification, the Commission directs that notice of a supplier's decision to cease business operations must be published in the same newspapers in which notice of the EGS's licensing application appeared. Such notice shall be published as a legal notice 30 days prior to the EGS ceasing business operations -- once a week for four weeks. The notice shall

contain (1) the supplier's name; (2) the supplier's current business address; (3) the name and address of a contact person to whom questions can be directed; (4) the supplier's last date of operation and (5) a business address to which correspondence can be forwarded after that date. A photocopy of the notice as it was initially published shall be submitted to the Commission's Secretary for inclusion at the application docket.

**B. Actual Notice to Consumer Contacts In A Two-Week Period.**

The commenters were unified in their opposition to the requirement that the EGS notify consumers who contacted or were contacted by the EGS in the two week period prior to the EGS's decision to cease business operations.

MAPSA believes there is a duty on the EGS to notify its customers of a decision to cease business operations because of the commitment between the supplier and the customer. It does not believe that it needs to notify other consumers to which it does not owe such a commitment. MAPSA, pp. 2-3. Also, MAPSA argues that because there will be other electric generation suppliers available to provide service, it is unlikely that customers will be harmed by the failure of the abdicating EGS to give notice. MAPSA, p. 3.

Enron agrees with MAPSA that the requirement that an EGS must notify its customers upon the cessation of business has nothing to do with reliability related to service continuity as the EGS that is ceasing business operations and the customer's must arrange for the transfer of that customer to the default supplier or the provider of last resort. Enron, p. 3. Enron states that there is no need for an EGS to have to give multiple notices to totally exit the market. Enron, p. 3.

NORAM claims that the consumer contact requirement is overly burdensome and impractical, and requests guidance as to whether notice may be provided telephonically. NORAM, p. 5. NORAM also states that instead of requiring notice, the Commission should allow the EGS to tell persons who contact it of its decision to quit business starting on the day that it sends notice to its customers and/or the Commission. NORAM, p. 5.

AES also comments that it is not necessary to provide actual notice to consumers who have contacted or been contacted by the supplier. AES argues that the same information is provided by newspaper notice without the costs of providing actual notice to these individuals. AES states that the Commission's emphasis should be on current customers who must act quickly to avoid service interruptions. AES, p. 2.

OCA characterizes the requirement as unrealistic in that the EGS may not have a record of the contact unless it resulted in an application for service. OCA, p. 2. PP&L claims that providing actual notice to all persons who contacted or who were contacted by the EGS is impractical and unreasonable, and interferes with EGS sales. "Such detailed tracking of phone calls, e-mail received, other internet contacts, in person contacts, and so on in all possible retail sales channels is not routine and will be quite expensive." PP&L, p. 4.

PP&L also states that actual notice is unnecessary as the people who contacted the EGS in this two-week time frame to become customers will receive notice and those who do not become customers would have to again contact the EGS somehow, in writing or by phone, and they would be informed of the EGS's decision during subsequent conversations. PP&L, p. 4.

PP&L suggests that a far better rule, given the lengthy period of 3/2/1 month billing notices that will be required is that, upon announcement and the beginning of the 3/2/1 month notice to customers beginning about 90 days prior to cessation, the EGS should be required to inform all persons with whom it has contact of its plans to cease business operations. Thus, for 90 days prior to cessation, any customer who calls an EGS or is called by an EGS would be told that the EGS intends to cease operation. Such a rule seems much more workable, would not necessarily burden the EGSs and would probably achieve much the same goal. PP&L, pp. 4-5.

The Commission has reconsidered its position on this issue and eliminates the consumer contact requirement as tentatively proposed. The Commission, however, adopts PP&L's suggestion. Accordingly, an EGS who is ceasing business operations shall inform all consumers with whom it has contact that the EGS intends to cease business operations. Such information must be provided to consumers for 90 days prior to cessation of business operations.

## **II. TRANSFER OF CUSTOMERS TO ANOTHER SUPPLIER BY LICENSE TRANSFER OR BY CONTRACT ASSIGNMENT**

### **a. Transfer of License.**

In its Tentative Order, the Commission proposed that an EGS be required to provide notice of a license transfer to its customers:

While the Commission in its Interim Licensing requirements has directed that notice of a license transfer be given to the Commission 30 days prior to the transfer, no notice is required to be given to the supplier's customers. To correct this deficiency, the Commission proposes that an EGS be required to provide notice of a license transfer to customers. This notice must provide the name of

the supplier to which the license is being transferred, and should state that a customer has the right to choose another supplier if he is unhappy with receiving service from the transferee supplier. This notice should be given at least 30 days before the date of the license transfer.

Tentative Order, p. 4.

Comments regarding this proposed interim guideline vary considerably. OCA agrees that customers should be notified when a license is to be transferred. OCA, p. 2. PP&L believes the notice requirement is reasonable and should be adopted. PP&L, p. 5.

AES is in partial agreement with the notice requirement; AES agrees that when the transferee is not an affiliated entity of the EGS with whom the customer contracted, the customer should receive notice. AES, p. 2. AES argues, however, that when there is an affiliation between the transferor and the transferee, the transfer is transparent to customers and there is no risk of service interruption. AES, p. 2. NORAM agrees with AES that customer notification should not be required if the license is transferred to a company that is affiliated with the transferring EGS. NORAM, p. 6.

Enron opposes the notification of customers of a license transfer and labels such a requirement as overreaching. Enron, p.5. MAPSA also opposes customer notification of a license transfer. MAPSA, p. 3.

The transfer of a license by a customer's chosen EGS to a different supplier not only has the potential to adversely affect that customer's service, but also, and more importantly, has actually negated that customer's initial choice of supplier. The Commission believes that "customer choice" remains the touchstone for electric competition. Customer choice rests not only on price, but also on other intangibles that make service from one supplier more attractive to a customer than



service from a different supplier. For this reason, the Commission is unconvinced that a license transfer to new supplier, including an affiliate, will not impact the consumer's perception of the quality of service that he or she will continue to receive.

Accordingly, the customer must be provided with timely information regarding the transfer of the license of the supplier of his or her choice, and the EGS must provide its customers with the name, address and consumer contact telephone number of the supplier to which the license will be transferred. The Commission recognizes that it cannot absolve a consumer from obligations incurred under a valid contract, and will remove the requirement regarding the insertion of specific language that the customer has the right to cancel the contract because he is unhappy with a transfer. The Commission will maintain the required 30 day notice to the customer prior to license transfer. This notice will give a consumer, who is unhappy with the transfer of his service with the license transfer, an opportunity to file a complaint or protest against the license transfer to the new supplier.

Although not technically a license transfer, changing the name of an EGS can also create customer confusion. To eliminate such confusion, suppliers are directed to provide notice to customers in accordance with this provision of a change in name of the supplier.

**b. Assignment of the Contract.**

The Commission discussed assignment clauses in customer agreements in its Tentative Order as follows:

The Commission does not have the authority to ban the use of assignment clauses in customer contracts. However, under its authority over the reformation and revision of contracts at 66 Pa. C.S. §508, the Commission will direct that any assignment clause must clearly inform a customer that he or she can reject the assignment of his or her contract without fear of the consequences of a breach of contract and select a new supplier. The Commission will also direct that, as part of a Consumer Education Program, consumers should be instructed as to the meaning of an assignment clause and the manner in which their service could be affected by an assignment of their contracts.

Tentative Order, pp. 5-6.

In its comments, the OCA recommends that the Commission amend the Customer Disclosure rules to require suppliers to prominently notify customers of the existence of assignment clauses and their meaning as part of the Terms of Service Disclosure. In addition, OCA states that a supplier should not be able to assign a contract to anyone but a Pennsylvania Supplier. OCA, p. 2. Finally, OCA states that the assignee would be prohibited from changing the terms of the existing contract without an agreement with the customer. OCA, p. 3.

Enron believes that it is unreasonable for the Commission to try to oversee contract assignment clauses, and claims that an EGS is not subject to Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501, and that Section 508, 66 Pa. C.S. § 508, relates only to utilities, and not to EGSs. Enron, p. 6.

PP&L does not want the requirements relating to assignment of contracts to be adopted, stating that they are unnecessary, and beyond the scope of the Commission's authority under Section 508. PP&L believes that currently matters of assignment are a matter of contract between the EGS and the customers, and that there is adequate market protections and legal protections that already govern the assignment of contracts. PP&L concedes that it is proper that the Commission

require disclosure of the terms of service to customers, but states that customers who do not like the terms of service, including the terms of an assignment clause, can select a new EGS. PP&L, pp. 5-6.

PP&L also takes particular exception to the Commission's stated goal that is to "ensure that customers can reject assignments of contracts" "without fear of the consequences of a breach and select a new supplier". PP&L, p. 6. The assignment rights of parties, like other terms and conditions, can be negotiated. PP&L, p. 6. PP&L says that information to small customers about assignments would make sense in the interest of fostering a competitive market. PP&L has no objection to making assignment clauses part of consumer education as long as the Commission does not mandate the form of EGS agreements and assignment clauses. PP&L, p. 7.

NORAM is concerned that the customer may have the right to choose another supplier because "he is unhappy with receiving service from the transferee supplier" when the transferee supplier is an affiliate of the original supplier. Although NORAM recognizes that the Commission may deem it is in the public interest for customers to be able to choose another supplier when the transferee supplier is an unrelated third party, it contends that the customer's right should not apply to licenses transferred or contracts assigned to affiliated parties, where such assignment or transfer is consistent with the contractual relationship between the parties. NORAM, pp. 6-7.

PECO agrees that consumers should be educated about the meaning and the effect of assignment clauses, but states that an EGS must include in its Terms of Service, an explanation of assignment clauses. PECO, p. 3.

MAPSA specifically requests that the Commission abandon its decision to require language in an assignment clause that the customer can abandon a contractual obligation in the event of assignment to a new supplier. MAPSA, p. 3. MAPSA claims by virtue of the fact that a supplier is qualified to do business in Pennsylvania, the Commission has determined in advance that the supplier is qualified to provide service. MAPSA thinks that the customer should have to perform his contractual obligations under the law. MAPSA, p. 3.

In response to the filed comments, the Commission has revised this guideline. Specifically, the Commission directs that any assignment clause used in a supplier contract must be written in plain language, be prominently printed and explained fully in "terms of service and disclosure". An assignment of a customer's contract must be made to a licensed Pennsylvania supplier, and shall be on the same terms as the original contract.

If an assignment of a customer's contract is to be made, the supplier must notify the customer in writing at least 30 days prior to the assignment date. The notice must include the date that the assignment will be effective, the name and address of the new supplier, the name, address, and the telephone number for a consumer representative for the new supplier, and the reason for the assignment.

The Commission also directs that, as part of a Consumer Education Program, consumers should be instructed as to the meaning of an assignment clause, the negotiability of an assignment clause, and the manner in which their service could be affected by the operation of an assignment of their contracts.

If the customer is unhappy with the assignment, the customer may file a complaint with the Commission. The customer will have the burden of proving

that the assignment constituted unreasonable service on the part of the supplier pursuant to 66 Pa. C.S. §1501.

To allow the Commission to monitor the developing generation market, all contract assignments must be reported to the Commission at least 30 days prior to the effective date of the assignment. The notice to the Commission must include the information required for the customer notice and the reason for the assignment.

### **III. EGS REFUSAL TO PROVIDE SERVICE TO NEW CUSTOMERS OR TO A CLASS OF CUSTOMERS FOR WHICH IT WAS LICENSED.**

Under Section 54.34(a) of the proposed licensing regulations, as revised by our final rulemaking order, a licensed supplier must inform the Commission of a material change in any information that was provided on its application. Under this proposed regulation, an EGS must report to the Commission its decision to limit service to additional customers in a class, or to eliminate service to a class for which it has been licensed. In the Tentative Order, we proposed to expand this notice to customers and the public as follows:

. . . To mitigate any customer inconvenience or confusion, the Commission proposes the imposition of interim requirements directing an EGS to provide notice that it will not provide service to new customers of a service class, or to members of a class that the EGS is not currently serving but that it had targeted in marketing campaigns. Accordingly, an EGS is required to provide actual notice to any consumer who had contacted the EGS about service, or had been contacted by the EGS in the two-week period prior to the EGS's decision to limit its provision of service to the customer class. Such notice should be provided as soon as is practical. Also, an EGS must provide constructive notice to the customer service class in general by publication in local newspapers no later than 30 days prior to closing a service class to new customers. An EGS would not be required to provide such notice to a class if it had not previously provided service to a member of that class, or had not marketed it

service to members of that class. Again, these interim customer notice requirements would not supplant the notice which must be given to the Commission pursuant to proposed Section 54.34(a) regarding a change in the scope of the EGS's business operations.

Tentative Order, p. 7.

## Comments

The OCA supports the legal notice publication requirement for the EGS who will no longer provide service to an additional customer in a class it is serving, or to customers in a class for which it is licensed but it is not serving, but states that the notice requirement to non-customers suffers from the same infirmities as the non-customer notice requirement for cessation of business operations. It is burdensome and because of lack of records of customer contacts may be impossible to do. OCA, p. 3.

PP&L opposes the proposed notice requirements as being anti-competitive. PP&L believes that the Commission should require an EGS to report its decision not to serve particular customer classes to the Commission in accordance with Section 54.34(a) (changes in scope of operation). PP&L, p. 7. PP&L states that it can accept a proposal that requires information given on a license application to be amended if the EGS decides not to serve a class for which it is licensed. PP&L expresses a concern that the Commission's proposal regarding notice to customers of a change in an EGS offerings to certain classes of customers underlies a "backdoor" approach to impose on EGSs "a duty to serve" all customers within a broad customer class. PP&L, pp. 7-8.

PP&L also opposes the requirement to provide actual notice to customers who had contacted, or who were contacted by the EGS for service in the two week period prior to its decision not to serve additional customers in a class or any customers in a class for which it was licensed. PP&L labels the requirement as

burdensome and anti-competitive. In sum, PP&L prefers to let the market place handle such matters as it sees no compelling reasons related to service reliability for the Commission to impose these requirements. PP&L, pp. 8 9.

MAPSA claims that it is impractical and unreasonable to assume that a service provider should undertake the burden to notify all consumers that contacted or who were contacted by an EGS in a two week period. MAPSA, p. 5. Enron states that it is unreasonable for a supplier to have to give notice to customers about future business decisions. Enron, p. 7. AES has no comment on this tentative requirement.

NORAM agrees with PP&L that the requirement that an EGS submit information to the Commission identifying the classes of customers and the service territories in which it is serving in any given period of time is overly burdensome and impractical. NORAM also contends that the supplier's license is a license to provide retail generation service and is not an obligation for the supplier to provide such service. NORAM, p. 3. NORAM believes that a supplier's obligation to a customer only begins after the supplier and the customer enter into contractual arrangements. NORAM, p. 3.

NORAM also comments that the reporting of a change in information regarding classes that it intends to serve on the application is sufficient notice that should satisfy the Commission concerns about notice. NORAM, p. 4. In fact, NORAM claims that the Customer Disclosure Rulemaking already requires suppliers to provide actual notice to customers. At most, the Commission should require notice to customers of operational changes that affect their service and contracts. NORAM, p. 4.

NORAM claims that there are other more effective and direct means for a Supplier to notify potential customers that the Supplier will not be providing service to additional customers or to a customer class. A potential customer who calls for service will be notified that the EGS will no longer be providing service to customers from that service class. NORAM, p. 3-4.

NORAM supports a rule that does not require disclosure to customers in a particular class if the supplier had not marketed its services to members of that class, but wants clarification. For example, NORAM questions if a supplier who publishes a general advertisement that does not reference a specific customer class is that supplier responsible for complying with the actual and constructive notification procedures. NORAM, p. 6.

As already discussed, licensees have an obligation to report material changes in the information that was provided on license applications to the Commission under Section 54.34(a) of the Final Rulemaking on Licensing Order. The extension of the informational notice requirement to include existing customers and the public is again to provide important information to the consumer about the electric generation market, specifically, the availability of service and of service providers.

In response to the commenters who see this informational requirement as a "backdoor" effort to impose an obligation to serve on suppliers, the Commission notes that it has a duty to monitor the competitive market under Section 2811(a) for both anti-competitive and discriminatory conduct. Only if the Commission is aware of all of the players in the market, and the extent of their participation in the market, including the demographics of the customer base, can the Commission effectively perform this important duty. It is unquestionable that a supplier's decision not to provide service to additional members of a class it is serving, or to a class for which it was licensed may impact the dynamics of the market. More



importantly, while a supplier does not have an obligation to serve, a supplier may not unreasonably discriminate against persons in the provision of that service.

As to the tentative guidelines, the Commission agrees that it is overly burdensome for a supplier to provide actual notice to each customer that contacted it for service, or the supplier contacted in a two week period, and believes it is appropriate to eliminate this direction. The EGS must notify customers that contact the utility by telephone for service of its decision to not provide service to new customers of a service class that it is currently serving, or to members of a service class that the EGS is not currently serving, but that it had targeted in marketing campaigns. The EGS should begin to provide this notice to customers as soon practicable after its decision to close service to certain customer classes has been made.

The Commission cannot agree that newspaper notice to the public regarding a supplier's business decision to cease providing service to a class or to members of a class is overly burdensome. Accordingly, an EGS must provide constructive notice to the customer service class by publication in local newspapers no later than 30 days prior to closing a service class to new customers. An EGS would not be required to provide such notice to a class if it had not previously provided service to a member of that class, or had not marketed its service to members of that class. This notice must be published in the same newspapers in which notice of the filing of the EGS's licensing application appeared. Such notice shall be published as a legal notice, and shall contain (1) the supplier's name; (2) the supplier's current business address; (3) the service class(es) to which service will no longer be provided; and (4) the name and address of a contact person to whom questions can be directed. A photocopy of the notice as it was initially published shall be

submitted to the Commission's Secretary for inclusion at the supplier's license application docket.

We note that the newspaper notice is for informational purposes only. A supplier is not required to provide service to additional customers once it has decided to stop providing service to members of a class.

The Commission recognizes that the subject matter of this final order overlaps on-going rulemakings<sup>1</sup> that are in their final stages, and that a subsequent rulemaking must be initiated to incorporate these procedures into Commission regulations. Accordingly, we will direct the Commission's Law Bureau to initiate a proposed rulemaking on this subject matter. Pending completion of this rulemaking, the interim procedures as set forth in this order must be followed to

ensure that timely information is provided to customers when a EGS makes a business decision that affects their service; THEREFORE,

IT IS ORDERED:

1. That the interim notification guidelines for licensed electric generation suppliers as set forth in this order and appendix are adopted as final.

2. That these interim notification guidelines are effective upon the entry date of this order, and shall remain in effect until they are superseded by regulations promulgated on this same subject matter.

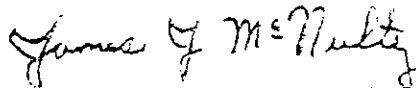
---

<sup>1</sup> Proposed Rulemaking on Customer Information Disclosure for Electricity Providers, Dkt. No. L-00970126; Proposed Rulemaking on Ensuring Customer Consent to a Change of Electric Suppliers (Anti-Slamming), Dkt. No. L-00970121; Proposed Rulemaking on Licensing Requirements for Electric Generation Suppliers, Dkt. No. L-00970129.

3. That the Commission's Law Bureau shall draft a proposed rulemaking to incorporate these interim notification guidelines in the Commission's regulations at Title 52 of the Pennsylvania Code.

4. That a copy of this order and any accompanying statements of the Commissioners be served upon all jurisdictional electric distribution companies, all licensed electric generation suppliers, the Pennsylvania Electric Association, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and shall be made available to all other interested parties.

**BY THE COMMISSION,**



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: August 13, 1998

ORDER ENTERED: AUG 14 1998

## APPENDIX

### Interim Guidelines Regarding Notification by an Electric Generation Supplier of Operational Changes Affecting Customer Service and Contracts

#### I. Cessation of Business- Notice to Consumer Contacts Who Are Not Customers

##### A. Newspaper Notice on the Cessation of Business

1. An EGS must publish legal notice in local newspapers announcing its intention to cease business operations.

2. Such notice must be published 30 days prior to the EGS ceasing business operation and must be published in the same newspapers in which notice of the EGS's licensing application appeared.

3. Such notice must be published as a legal notice 30 days prior to the EGS ceasing business operations-- once a week for four weeks.

4. The notice must contain (a) the supplier's name; (b) the supplier's current business address; (c) the name and address of a contact person to whom questions can be directed; (d) the supplier's last date of operation and (e) a business address to which correspondence can be forwarded after that date.

5. A photocopy of the notice as it was initially published must be submitted to the Commission's Secretary for inclusion at the application docket.

### **B. Actual Notice to Consumer Contacts In A Two-Week Period.**

An EGS who is ceasing business operations, must inform all consumers with whom it has contact that it intends to cease business operations. Such information must be provided to consumers for 90 days prior to cessation of business operations.

## **II. TRANSFER OF CUSTOMERS TO ANOTHER SUPPLIER BY LICENSE TRANSFER OR BY CONTRACT ASSIGNMENT**

### **A. Transfer of License.**

1. An EGS must provide notice of a license transfer to customers. This notice shall provide the name, address and consumer contact telephone number of the supplier to which the license is being transferred. This notice must be given at least 30 days before the date of the license transfer.

2. Customers must also be notified in accordance with this provision when the supplier changes its name.

### **B. Assignment of the Contract.**

1. Any assignment clause used in a supplier contract must be written in plain language, be prominently printed and explained fully in "terms of service and disclosure".

2. An assignment of a customer's contract must be made to a licensed Pennsylvania supplier, and must be on the same terms as the original contract.

3. If an assignment of a customer's contract is to be made, the supplier must notify the customer in writing at least 30 days prior to the assignment date. The notice must include the date that the assignment will be effective, the name and

address of the new supplier, the name, address, and the telephone number for a consumer representative for the new supplier, and the reason for the assignment.

4. To permit the Commission to monitor the developing generation market, all contract assignments must be reported to the Commission at least 30 days prior to the effective date of the assignment. The notice to the Commission must include the information required for the customer notice and the reason for the assignment.

5. As part of a Consumer Education Program, consumers should be instructed as to the meaning of an assignment clause, the negotiability of an assignment clause, and the manner in which their service would be affected by the operation of an assignment of their contracts.

### **III. EGS REFUSAL TO PROVIDE SERVICE TO NEW CUSTOMERS OR TO A CLASS OF CUSTOMERS FOR WHICH IT WAS LICENSED.**

#### **A. Notice to Customers That Contact the EGS by telephone.**

If an EGS decides that it will not provide service to new customers of a service class that it is currently serving, or to members of a service class that the EGS is not currently serving, but that it had targeted in marketing campaigns, the EGS must notify customers that contact the utility by telephone requesting such service of its decision not to provide such service. The EGS shall begin to provide this notice to customers as soon practicable after its decision to limit service to certain customer classes has been made.

## **B. Newspaper Notice to Affected Class Members.**

1. If an EGS decides that it will not provide service to new customers of a class that it is currently serving, or to members of a class that the EGS is not currently serving, but that it had targeted in marketing campaigns, the EGS must provide constructive notice to the customer service class by publication in local newspapers.

2. Notice must be provided no later than 30 days prior to closing a service class to new customers. An EGS will not be required to provide such notice to a class if it had not previously provided service to a member of that class, or had not marketed its service to members of that class.

3. Notice must be published in the same newspapers in which notice of the filing of the EGS's licensing application appeared. Such notice must be published as a legal notice 30 days prior to the EGS ceasing the provision of service to a class, or to additional members of a class.

4. The notice shall contain (1) the supplier's name; (2) the supplier's current business address; (3) the service class(es) to which service will no longer be provided; and (4) the name and address of a contact person to whom questions can be directed. A photocopy of the notice as it was initially published must be submitted to the Commission's Secretary for inclusion at the application docket.

5. The newspaper notice is for informational purposes only. A supplier is not required to provide service to additional customers once it has decided to stop providing service to members of a class.