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VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Retail Markets Working Group ("RMWG"); Docket No. M-00072009

Dear Secretary McNulty:

Enclosed for filing with the Commission are an original and ten (10) copies of the Position Paper Regarding Customer Information Disclosure on behalf of the Industrial Energy Consumers of Pennsylvania; Philadelphia Area Industrial Energy Users Group; Met-Ed Industrial Users Group; Penelec Industrial Customer Alliance; PP&L Industrial Customer Alliance; and West Penn Power Industrial Intervenors (collectively, "Industrial Customer Groups"), concerning the above-captioned proceeding.

Please date stamp the extra copy of this letter and Position Paper and kindly return them to us for our filing purposes. Thank you.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By

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Industrial Intervenors

SLK/lhi

Enclosures

c: Lawrence Barth, Esq., Law Bureau (via E-mail)

INDUSTRIAL CUSTOMER GROUPS
POSITION PAPER REGARDING CUSTOMER INFORMATION DISCLOSURE
DOCKET No. M-00072009

On May 10, 2007, the Pennsylvania Public Utility Commission ("PUC" or "Commission") adopted a final statement of policy order that addresses elements of the default service regulatory framework, including default service program terms, electric generation supply procurement and competitive bid solicitation. As part of this policy statement, the Commission referred certain issues relating to guidelines on the integration of default service with the retail electric supply market to the Retail Markets Working Group ("RMWG"). On April 26, 2008, by notice in the Pennsylvania Bulletin, Commission Staff requested that parties interested in participating in the RMWG submit position papers on proposed 52 Pa. Code §§ 69.1812-69.1817. The Industrial Energy Consumers of Pennsylvania ("IECPA"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), PP&L Industrial Customer Alliance ("PPLICA") and West Penn Power Industrial Intervenors ("WPPII"), collectively ("Industrial Customer Groups") are interested in participating in the RMWG, and submit this paper in order to address their preliminary position and concerns regarding customer information disclosure as proposed in 52 Pa. Code § 69.1812.

IECPA is a 24 member ad hoc group of energy intensive industrial customers of electricity and natural gas. Members of IECPA consume 6 billion kWh of electricity, and more than 41,000 Pennsylvanians are employed by IECPA member companies. PAIEUG, MEIUG, PICA, PPLICA and WPPII are all ad hoc groups of commercial, institutional and industrial customers that participate in various proceedings before this Commission. As the PUC continues its transition full direct access, certain interests of large customers must be addressed. Several issues raised by the Commission's policy statement may have a direct impact on the Industrial Customer Groups. Issues and proposals submitted to the RMWG by other stakeholders may also impact the large customers. As a result, the Industrial Customer Groups reserve the opportunity to fully participate in the RMWG.

The Default Service and Retail Electric Markets policy statement provides the following with respect to information and data access:

The public interest would be served by common standards and processes for access to retail electric customer information and data. This includes customer names and addresses, customer rate schedule and profile information, historical billing data, and real time metered data. Retail choice, demand side response and energy conservation initiatives can be facilitated if EGSs, curtailment service providers and other appropriate parties can obtain this information and data under reasonable terms and conditions common to all service territories, that give due consideration to customer privacy, provide security of information and provide a customer an opportunity to restrict access to nonpublic customer information.

52 Pa. Code § 69.1812

This is not the first time the Commission has considered what type of information should be available to Electric Generation Suppliers ("EGSs") and other suppliers. Specifically, in the Commission's Final Order entered May 18, 1999, Procedures Applicable to Electric Distribution Companies and Electric Generation Suppliers During the Transition to Full Retail Choice, Docket No. M-00992130, the Commission found that unless customers specifically prevented the disclosure of load data or all information using check-off boxes, an Electric Distribution Company ("EDC") should release the name, billing address, service address, rate class, rate sub-class (if available), account number and load data¹ for all eligible customers to licensed EGSs. In exchange for access to this data for all customers, except those who affirmatively restricted access, EGSs were required to commit through the use of disclosure forms to maintain the confidentiality of information provided to them.

Here, the Commission recommends a uniform approach to disclose of customer names and addresses, customer rate schedule and profile information, historical billing data and real time metered data. While furnishing the name, address, and rate classes of customers may be acceptable, the Commission must ensure that other commercially-sensitive customer information, such as load profile

¹ In that proceeding, "load data" included the following: (1) 12 months of historical kWh usage, (2) typical load curve for the applicable customer class or specific load data for customers with hourly metering, and (3) any available load strata/customer profile information. See Procedures Applicable to Electric Distribution Companies and Electric Generation Suppliers During the Transition to Full Retail Choice, Docket No. M-00992130 (May 18, 1999).

information, be subject to the strictest confidence. The Industrial Customer Groups respectfully urge the Commission to revisit its prior decision that load profile information, historic billing data and real time metered data can be given to any requesting EGS without the customer's specific consent.

The Industrial Customer Groups recognize that information such as a customer's load factor, hourly usage, capacity obligation and transmission obligation is important to EGSs when calculating price offers. This type of information may also reveal to competitors highly proprietary information regarding aspects of a customer's business, such as production levels and efficiency. Consequently, it is extremely important to large customers that information such as this be subject to stringent confidentiality constraints, and not be released without explicit customer authorization.² After an EGS initiates contact with a particular customer, the customer can decide whether it desires a price quotation from that EGS and, if so, can provide consent to the EDC for that EGS to have access to its load profile, historic billing and hourly metered load information.

The Industrial Customer Groups recommend that in order to meet the policy statement's goal that information disclosure "give[s] due consideration to customer privacy, provide[s] security of information and provide[s] a customer an opportunity to restrict access to nonpublic customer information," at a minimum a customer must:

- Be able to easily prevent access to load information (including historical and real time billing) and be informed of this right;
- Be able to authorize specific EGSs to access customer data on an as-directed basis;
- Be able to designate a limited time frame in which the specific EGSs may obtain customer data; and
- Be able to access its data from the EDC in the same format provided for EGSs so the customer can disseminate the data to the specific EGSs from which it wants to request quotations.

² A customer concerned with the confidentiality of this information could take steps to affirmatively prohibit the release of the data; however, this method of addressing confidentiality concerns places the risk of any errors in implementing that choice on the customer and could irreparably harm the customer's business interests if there is an error in the process. As a result, the Industrial Customer Groups request that the Commission prohibit the release of load data unless the customer affirmatively consents.

Moreover, the Industrial Customer Groups have grave concerns about the possibility of releasing customer data to "curtailment service providers and other appropriate parties." As noted above, in Docket No. M-0099120, the Commission made clear that licensed EGSs are required to maintain the confidentiality of information provided to them. Because licensed EGSs are within the jurisdiction of the Commission, the PUC can enforce such standards. The same cannot be said about curtailment service providers ("CSP") or "other appropriate parties." CSPs are not PUC regulated; "other appropriate parties" are also presumably not PUC regulated. Without any assurance of keeping sensitive usage and billing information private, customers face the risk of their load information being given to a CSP or "other appropriate party." CSPs and "other appropriate parties" should only be able to access information (including customers' names, addresses, rate schedules and load data) with affirmative consent.

The Industrial Customer Groups appreciate the opportunity to present this preliminary position to the PUC. The Industrial Customer Groups plan to actively participate in the RMWG in order to discuss and develop appropriate and workable requirements regarding issues that may impact large customers, such as information disclosure.