



OFFICE OF CONSUMER ADVOCATE

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June 10, 2008

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

RE: Retail Markets Working Group  
Docket No. M-00072009

Dear Secretary McNulty:

Enclosed for filing are an original and ten (10) copies of the Initial Position Paper of the Office of Consumer Advocate, in the above-referenced proceeding.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Tanya J. McCloskey".

Tanya J. McCloskey  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50044

Enclosure

cc: Lawrence F. Barth, Assistant Counsel (via e-mail only)

00100456

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RETAIL MARKETS WORKING GROUP : M-00072009

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**INITIAL POSITION PAPER OF THE  
OFFICE OF CONSUMER ADVOCATE**

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The Office of Consumer Advocate (OCA) files this initial position paper in response to the April 26, 2008 request for position papers regarding the Retail Markets Working Group portion (Sections 69.1812-69.1817) of the May 10, 2007 Final Policy Statement on Default Service and Retail Electric Markets. This request for position papers was published in the Pennsylvania Bulletin at 38 Pa.B. 2029.

**I. INTRODUCTION**

The OCA supports the Commission's efforts to establish the Retail Markets Working Group (RMWG) to address information and data access, rate and bill ready billing, purchase of receivables, customer referral programs, supplier tariffs and the retail choice ombudsman. The OCA looks forward to working with the Commission and other stakeholders through the RMWG to address these issues.

The OCA supports the RMWG and submits that the Working Group is the appropriate forum to address these general issues applicable to all EDCs and EGSs. The OCA will address, in its position paper below, the areas of concern that it has with the individual issues to be discussed in the RMWG and its initial positions thereon.

## II. COMMENTS

### A. Contact Persons

The Law Bureau has indicated that, in filing its comments, each party should include the contact information for the persons whom it wishes to participate in the RMWG. The OCA will be represented in the RMWG, with regard to all issues, by Tanya McCloskey and Jennedy Johnson. Their contact information is as follows:

Tanya J. McCloskey  
Senior Assistant Consumer Advocate  
E-Mail: [TMcCloskey@paoca.org](mailto:TMcCloskey@paoca.org)  
Jennedy S. Johnson  
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### B. Specific Provisions

#### 1. 52 Pa. Code § 69.1812- Information and Data Access

In this provision, the Commission is seeking to establish common standards under which EGSs, curtailment service providers, and other appropriate parties can be granted access to retail customer information and data—including names, addresses, rate schedules, historical billing data and real time metered data. The Commission recognized that due consideration must be given to customer privacy by providing customers an opportunity to restrict access to non-public information.

The OCA does not object to the use of a mass customer list to assist in retail market development, if appropriate consumer protections are in place as provided in 52 Pa. Code Section 54.8 and the Procedures Applicable To Electric Distribution Companies and Electric Generation Suppliers During The Transition To Full Retail Choice, Docket No. M-00991230,

slip op at 21-25 (Order entered May 18, 1999) (EDC/EGS Procedures.) It is the OCA's position, that the previously adopted Commission protections concerning the creation and distribution of a mass customer list should be utilized. See EDC/EGS Procedures, *slip op.* at 21-25 (entered May 18, 1999); see also, 52 Pa. Code § 54.8 (regarding privacy of customer information).

As such, the OCA's initial position is that it does not object to the use of a mass customer list to assist in retail market development, if the appropriate consumer protections previously set forth by the Commission remain in place.

2. 52 Pa. Code § 69.1813- Rate and Bill Ready Billing

In this provision, the Commission encourages the consideration of the availability of rate and bill ready billing in each service territory. The OCA does not take a position on this issue at this time, but would not support any billing initiative that is unduly costly without corresponding ratepayer benefits. The OCA notes that the Commission approved the EGS Consolidated Billing Practices prepared by the EGS Consolidated Billing Working Group on April 13, 2000. To the extent that any further guidelines are needed for consolidated billing, these Practices should be considered as the foundation of any consolidated billing framework between any EDC and EGS. Therefore, the OCA recommends that any consolidated billing program be examined for cost effectiveness and utilize the framework found in the EGS Consolidated Billing Practices.

3. 52 Pa. Code § 69.1814- Purchase of Receivables

The Commission would like the RMWG to consider Purchase of Receivables (POR) programs to determine if they are in the public interest. The OCA would note that there are currently at least two forms of programs that address receivables utilized by electric utilities. Under the first form, arising out of the restructuring settlements, the EDC pays the supplier the

full amount of the supplier's charges (which are unregulated) for the first 90 days of any past-due billing regardless of what the EDC actually collects from the customer. At the end of the 90 days, if the customer has not paid the full amount of the supplier charges, the EDC's obligation to pay the supplier ends. The EGS then has two options: (1) to issue its own bills (i.e. dual billing) or (2) to turn the customer back over to the EDC for enrollment in the POLR program. See, e.g., PECO Electric Generation Supplier Tariff, Pa P.U.C. No. 1S, pg. 93 (PECO Energy Company Competitive Billing Specifications). The second form of receivables programs is utilized only by Duquesne. In this program, the company pays the full supplier charges to the EGS, minus a negotiated discount rate, for the entire duration of the program. In other words, the EDC is buying the receivables of the EGS at a discounted rate. The EDC then has the right to collect any unpaid EGS charges from customers using its regulated credit and collection procedures, including termination of utility service, subject to certain customer protections. The OCA would note that under either form, these programs often result in substantial value accruing to the EGSs.<sup>1</sup>

The OCA does not oppose a purchase of receivables program, so long as any program is subject to proper consumer protections. It is the OCA's position, however, that any POR program that allows the EDC to terminate service for failure to pay an EGS's generation charges must, at a minimum, contain the following protections:

- Any POR agreement must specifically prevent residential customers from being terminated for failure to pay EGS charges to the extent they are **higher** than the default service rate. Customers would still remain subject to termination for failure to pay the default service rates or amounts equal to or less than the default service rates;

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<sup>1</sup> In the natural gas industry, there is a third model. In the third model, the utility purchases the supplier receivables but is not permitted to terminate utility service for any unpaid supplier charges.

- Participating EGSs should not be permitted to reject a customer based on credit-related issues and an EGS should not be permitted to seek a separate security deposit from residential customers;
- The POR program must identify a specific discount rate that will be applicable to the purchase of receivables. This discount rate should reflect the costs related to the estimated EGS uncollectible expenses and recover the incremental initial and incremental ongoing operating and administrative costs associated with the POR program;
- With the implementation of a POR program, there should not be any further allocation of costs from distribution rates into the Price to Compare; and
- The utility should not be able to recover retroactively from distribution ratepayers any difference between the discounts applied to EGS receivables and uncollected amounts resulting from the purchase of EGS' receivables.

There are a variety of POR programs, and the OCA would like to review all aspects of any program to ensure that it is both cost effective and properly defined. In any case, however, the OCA submits that the Commission should require, at least, the protections identified above by the OCA.

#### 4. 52 Pa. Code § 69.1815- Customer Referral Program

In this provision, the Commission recommends the consideration of customer referral programs under which retail customers are referred to EGSs by the EDCs. The OCA generally supports consumer education initiatives to inform customers about the upcoming rate changes and the options that may be available to customers, but such initiatives can be vastly different than customer referral programs.

With respect to customer referral programs, there are many varieties of such programs and no specific form has been proposed to be implemented. The OCA, however, would not support the type of customer referral programs used in New York. The New York programs go far beyond merely referring customers to specific suppliers. For the New York utilities that operate referral programs (and not all do so), the customer who expresses an interest

in the program does not actually choose an alternative supplier, but is randomly switched by the utility to one of the approved suppliers. Once switched, that customer is provided a predetermined discount (10% or less) for a 2-3 month period and is promised that during this brief period the resulting bill will be less than the default service price offered by the utility. In most cases, this discount is funded in part by the utility with ratepayer funds—as a result of a negotiated settlement in New York. At the end of the trial period, the supplier must contact the customer and obtain an affirmative selection of that supplier to continue to provide service. At that time, the supplier is free to charge its “going rate,” even if it is higher than the utility default service.

The OCA would recommend, instead, that the working group focus on programs where customers who seek information regarding competitive choice be referred to a neutral website containing information on suppliers and their offers to various customer classes in the utility’s service territory. The website should include up-to-date information on prices and other key aspects of each supplier’s offers, including termination fees, security deposits, and other charges. If the customer does not have internet access, the utility should provide the same information in printed form to the customers via postal mail.

Any referral program considered by the RMWG should be analyzed to ensure that all aspects of the program are cost effective, responsive to customer needs, and properly defined.

5. 52 Pa. Code § 69.1816- Supplier Tariffs

In this provision, the Commission seeks uniformity in both form and content for all supplier tariffs. This uniformity is intended to facilitate EGS participation in the Pennsylvania retail market as well as reduce the potential for mistakes or misunderstandings between EGSs and EDCs.

The OCA fully agrees with the Commission that uniformity in supplier tariffs is generally preferable. The OCA recognizes, however, that certain differences in the various systems operating in Pennsylvania might make perfect conformity difficult. The OCA looks forward to working with all parties to develop tariffs that are consistent to the maximum extent possible, but that recognize the differences among Pennsylvania utilities that must be addressed on an individual basis.

6. 52 Pa. Code § 69.1817- Retail Choice Ombudsman

In this Section, the Commission states that the public interest would be served by designating an employee at each EDC and the Commission to be a retail choice ombudsman. This ombudsman would be responsible for responding to questions from EGSs, monitoring competitive markets complaints, and facilitating informal dispute resolution between the DSP and EGSs.

The OCA is concerned about the usefulness of such a position as the New York Commission's Retail Choice Office, upon which the OCA understands this Section to be predicated, has been disbanded. It is not clear what the cost or benefits of such a program would be. Also of concern is the neutrality of the ombudsman. The goal of the Commission and utilities should be to ensure that all customers have access to reliable service at reasonable prices, whether offered by the utility itself or by alternative suppliers. Retail shopping is not an end in itself but should be viewed as one possible means to the goal of reliable service at reasonable prices.

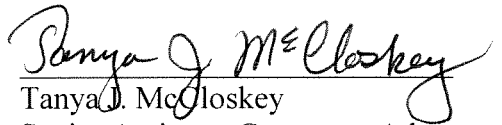
Accordingly, it is the position of the OCA that if the RMWG finds merit in such a policy, the group should detail the responsibilities of the ombudsman to ensure the position is properly structured and that it is a cost-effective proposal.



### III. CONCLUSION

The OCA appreciates the opportunity to provide its initial positions on these important topics. The OCA, and its representatives Tanya McCloskey and Jennedy Johnson, look forward to actively participating in the RMWG and helping to resolve the important issues addressed above.

Respectfully Submitted,

  
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