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July 28, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

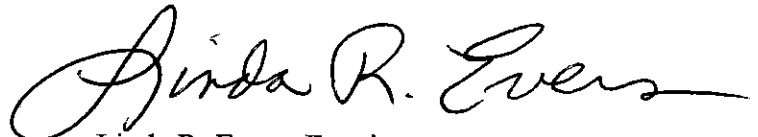
Dear Secretary Chiavetta:

Enclosed for filing on behalf of Washington Gas Energy Services, Inc. is a copy of its Reply Comments in the above-captioned docket, which were filed electronically through the Pennsylvania Public Utility Commission's e-File system today.

If you have any questions, please do not hesitate to contact me. Thank you.

Best Regards,

STEVENS & LEE


Linda R. Evers, Esquire

LRE:lmr

Encl.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines For Eligible Customer Lists : M-2010-2183412
Customer Lists :

**REPLY COMMENTS OF
WASHINGTON GAS ENERGY SERVICES, INC.**

I. INTRODUCTION

Washington Gas Energy Service, Inc. (“WGES”) hereby files these Reply Comments in the above captioned docket regarding the Pennsylvania Public Utility Commission’s (“Commission”) intention to reconsider the uniform, statewide eligible customer lists (“ECL”) information provided by Electric Distribution Companies (“EDCs”) to Electric Generation Suppliers (“EGSs”) set forth in an Order issued on November 12, 2010, Docket No. M-2010-2183412 (“Interim Guidelines For Eligible Customer Lists”) (November 12 Order).

Comments were filed by (1) EGSs -- WGES, National Marketers Association (“NEM”), the Retail Energy Supply Association (“RESA”), Dominion Retail, Inc. (“Dominion”), First Energy Solutions Corp. (“FES”), and the Pennsylvania Energy Marketers Coalition (“PEMC”); (2) EDCs – PPL Electric Utilities Corporation (“PPL Electric”), Duquesne Light Company (“Duquesne”), and together Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (“FirstEnergy”) and (3) consumer advocates -- the Office of Consumer Advocate (“OCA”), the Pennsylvania Utility Law Project, AARP, Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“PULP et al.”), the American Civil Liberties Union (“ACLU”), and the Pennsylvania Coalition Against Domestic Violence (“PCADV”).

II. REPLY COMMENTS

WGES agrees with the point made by RESA that the November 12 Order addresses “a significant number of issues regarding the ECL that are not implicated by the privacy concerns raised during the appeal” and the Commission “should not take any action in this proceeding to uproot those already established protocols and decisions” (RESA Comments, p. 2). FES makes the same point that “the Commission’s primary concern in reconsidering the November 12 Order is to receive further comment on the privacy issues” and “supports the parameters set forth in the November 12 Order for ECL information ... “ (FES Comments, p. 3).

A. **All customers should be allowed to restrict the release of all their information from appearing on an ECL utilizing an opt-out process.**

The November 12 Order contained 23 data elements in an ECL and provides a special exception that would enable only “endangered persons” to restrict **all** their information from being released to an ECL. Everyone else could prevent their telephone numbers, service address and historical billing data from being released. Additionally, the November 12 Order adopted an opt-out method for the development of an ECL and for the protection of customer privacy rights with regard to restrictions on information provided in an ECL.

There is strong consensus, if not unanimity, among commentators that the November 12 Order should be revised to permit **all** customers to restrict the release of **all** their information on an ECL. EGSs and EDCs (except Duquesne) agree to this method of providing customer privacy on condition that the current opt-out method remains in place. Additionally, OCA supports an opt-out process. Revising the November 12 Order to enable all customers to restrict all their information from appearing on an ECL, coupled with the retention of the well-established opt-out process with the protections currently in place as cited by OCA, would be in the public

interest and reflect sound policy. This method strikes the right balance. It respects the privacy of customers, allows endangered persons (i.e. victims of domestic abuse) to act on their personal safety concerns without having to undergo an identification process yet it increases the likelihood that all customers will have an opportunity to receive energy savings offers from EGSs.

B. The opt-in method proposed by PULP et al, the ACLU and PCADV should be rejected.

The Commission has already considered and rejected the opt-in method in numerous orders and actions dating to 1999, and should dismiss renewed attempts to reverse its opt-out policy at this late date, particularly as retail competition and customer choice is moving forward and benefiting Pennsylvania consumers. A number of parties point out the opt-out process was in place prior to the November 12 Order (OCA Comments, p. 6; Dominion Retail Comments, p. 2; FirstEnergy Comments, p. 4; PPL Electric Comments pp. 6, 7).

An opt-out process is consistent with current law and regulation, 52 Pa. Code §54.8(a), where neither an EGS nor an EDC can release customer information to third parties or publicly without notifying the customer and providing the customer with a convenient way to restrict the release of information. This legal obligation applies to all information elements in an ECL and applies whether the information is obtained by an EGS from an EDC by an opt-in or an opt-out process. The distrust of EGSs and EDCs being able to honor their legal obligations in the handling of customer information as advanced by the ACLU, PULP et al. and PCADV is unwarranted. Enabling all customers to restrict the release of all their information from appearing on an ECL via an opt-out process coupled with the statutory obligation to treat the

information in accordance with strict limitations on further release and use provides the privacy protection these advocates seek.

The opt-out process outlined by the OCA (OCA Comments, pp, 19 – 22) is sound and acceptable. Contrary to the points made by ACLU, PULP et al. and PCAPV, when opt-out rights are properly communicated to customers and are attended with clear and simple procedures for the exercise of such rights, ECLs compiled and provided by EDCs to EGSs are workable and soundly protect consumers from unwanted public disclosure or unauthorized use of their information on file with an EDC. As RESA points out, releasing ECL information to licensed EGSs with the statutory protections and prohibitions in place is no different than providing the same information to EDCs (RESA Comments, p. 3).

The comments of all EGSs demonstrate that accurate and fairly developed ECLs are critical for developing and making competitive offers to customers based on usage and load profiles. Importantly, such ECLs enable EGSs to enroll customers with the EDC after consummating contracts without mistakes and thus operate to ensure the proper functioning of the competitive market. ECLs enable EGSs to better focus their marketing efforts, reduce their customer acquisition and marketing costs and increase the number of competitive offers to customers.

On the other hand ECLs compiled through an opt-in method are less useful, reduce the number of customers participating in choice and receiving offers, and increase supplier costs to solicit and acquire customers. For example, without basic customer information such as fuel use and location, it is difficult for an EGS to even know if a customer can use natural gas. Also, without up front usage data on an ECL, customers would be less likely to receive EGS offers tailored to their particular circumstances.

C. Smart meter data elements should not be eliminated.

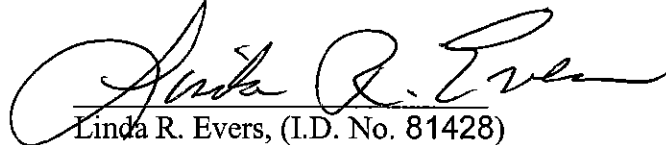
Currently, 23 data elements are authorized to be on an ECL. OCA would reduce these elements by eliminating the smart meter data elements (OCA Comments, pp. 23 – 28). One of the benefits of having smart meter deployment is the ability of EGSs and curtailment service providers to be able to develop and offer all customers innovative products and services and to make offers that can save customers substantial money. OCA posits that smart meter data is different than other customer information elements on an ECL because such data can provide information concerning a customer's energy use behavior. This very information can drive innovative and energy saving offers, increasing the value of smart meters to customers. WGES has experience with being able to offer products tailored to customer's usage and has not encountered any customer privacy issues or concerns about unwanted disclosures from customers because of applicable privacy safeguards. WGES submits that smart meter data will receive the same privacy protections applicable to other information on the ECL. The protection OCA seeks already exists. Therefore smart meter data should not be treated differently.

III. CONCLUSION

WGES appreciates the opportunity to present these reply comments on the important issue of eligible customer lists and privacy safeguards.

Respectfully Submitted,

STEVENS & LEE

A handwritten signature in black ink, appearing to read "Linda R. Evers", written over a horizontal line.

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