

COMMONWEALTH OF PENNSYLVANIA



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March 25, 2014

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: Proposed Rulemaking: Standards For
Changing a Customer's Electricity
Generation Supplier
Docket No. L-2014-2409383

Dear Secretary Chiavetta:

Enclosed for filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

If you have any questions, please feel free to contact me at the number listed above.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Darryl A. Lawrence".

Darryl A. Lawrence
Assistant Consumer Advocate
PA Attorney I.D. # 93682

Enclosure

cc: Office of Competitive Market Oversight
RA-OCMO@pa.gov

180934

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking: Standards For :
Changing a Customer's Electricity : Docket No. L-2014-2409383
Generation Supplier :

COMMENTS
OF THE
OFFICE OF CONSUMER ADVOCATE

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DATED: March 25, 2014

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I. INTRODUCTION

On March 18, 2014, the Pennsylvania Public Utility Commission (Commission) issued a Secretarial Letter to inform jurisdictional Electric Distribution Companies (EDCs), the Office of Consumer Advocate (OCA), and the Office of Small Business Advocate (OSBA) of its intent to promulgate a rulemaking. The proposed rulemaking amends existing Regulations at 52 Pa. Code Chapter 57 to direct EDCs to accelerate switching time frames through off-cycle meter reads in a fashion that would permit Pennsylvania retail electric customers to switch suppliers within three days or less. In its Secretarial Letter, the Commission indicated that the primary purpose of this rulemaking is to respond to the recent impact of wholesale electricity market price increases on Pennsylvania consumers and to help eliminate the risk of similar events occurring again in the immediate future

Along with the Secretarial Letter, the Commission provided a draft of the proposed regulations. The Secretarial Letter requested comments and indicated that they were due in seven days.

The Commission determined that the rulemaking will take the form of a “final-omitted” proceeding pursuant to 45 P.S. Section 1204(3); 71 P.S. Sections 745.5a and 745.6. A “final-omitted regulation” is a regulation for which the agency has omitted the notice of proposed rulemaking requirements of Sections 201 and 202 of the Commonwealth Documents Law. 71 P.S. § 745.3. Pursuant to Section 204 of the Commonwealth Documents Law, an agency may omit the notice of proposed rulemaking requirements of sections 201 and 202 if “the agency for good cause finds . . . that the procedures specified in sections 201 and 202 are in the circumstances impracticable, unnecessary, or contrary to the public interest.” 45 P.S. § 1204(3); see, e.g., Implementation of Act 35 of 2007; Net Metering and Interconnection, Docket No. L-

00050174, Final Order (order entered July 2, 2008) (finding good cause for final-omitted rulemaking because “*de novo*” rulemaking would be redundant, unnecessary, and not in the public interest when amending regulations to comply with statutory amendment). An agency shall, however, submit final-omitted regulations to the Independent Regulatory Review Commission and the standing committees of the Senate and House of Representatives on the same date the agency submits the regulations to the Attorney General for review, as required by Section 204(b) of the Commonwealth Attorneys Act. 71 P.S. § 745.5a(c) (noting that with the exception of the notice and comment requirements, all other requirements of Section 5 of the Regulatory Review Act are applicable to final-omitted rulemakings).

The OCA is concerned with the use of a “final-omitted” proceeding, particularly as it concerns an issue with potential significant costs. Without knowing the cost of these proposals, it is not possible to assess whether the time frames are reasonable for either accelerated switching or implementation. In its Investigation of Pennsylvania’s Retail Electric Market (RMI) Final Order, the Commission acknowledged the importance of a formal rulemaking when revising switching regulations. Docket No. I-2011-2237952, Final Order, (Order entered Feb. 15, 2013). The Commission stated:

A rulemaking will provide all interested parties with the opportunity to participate and will allow the Commission to make fully informed decisions on the complex issues involved. The use of a formal rulemaking should also help clarify any cost-recovery issues. While we agree that certain changes could be appropriate by way of an Order at this time, the changes should be informed and narrowly tailored.

Id. at 72-73.

The OCA would also note that the time frame for comment is short which compromises the thoroughness of the review that the parties are able to undertake and the completeness of the

cost information that may be provided. In addition, there are numerous on-going legislative efforts that may impact some of the Commission's proposals. The OCA supports consideration of accelerated switching as one part of a comprehensive plan if it can be achieved at a reasonable cost and in a manner that respects consumer protection. The OCA submits that at this time, however, sufficient information and time for review has not been provided to support these changes. While the OCA supports the Commission's efforts to improve the wholesale electricity market in Pennsylvania, customers should not be burdened with an unknown level of costs and risks without thorough analysis.

The OCA cautions that accelerating the switching time is not alone sufficient to protect consumers, but it should be considered as one part of a more comprehensive plan.¹ The OCA acknowledges the frustration of customers with lengthy switching times and the potential benefits of accelerated switching. Without full information on the costs and possible consumer protection impacts, though, it is not possible to determine the best solution at this time. As such, the OCA respectfully submits that the Commission should not use the "final-omitted" rulemaking procedure.

Rather than the procedure proposed in the Secretarial Letter, the Commission should issue an Order or guidelines to achieve some of the proposals contained in this Rulemaking, and others recommended by the parties, while these issues are further developed through the procedures established in the Commission's Order on Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products and through efforts of the General Assembly. Docket No. M-2014-2406134, Final Order, (order entered March 4, 2014).

¹ The OCA has been preparing Comments in response to the Commission's March 4, 2014 Order which are due on April 3, 2014. In those Comments, the OCA will be providing additional recommendations to establish a more comprehensive approach to the problems identified by the variable price plans and the marketing practices related to those plans.

This is the same type of procedure that was used by the Commission in its Interim Guidelines Regarding Standards for Changing a Customer's Electricity Supplier² and Interim Guidelines on Marketing and Sales Practices for Electric Generation Suppliers and Natural Gas Suppliers,³ which was later followed by a rulemaking at Docket No. L-2010-2208332. Rulemaking Re: Marketing and Sales Practices for the Retail Residential Energy Market, Corrected Final Rulemaking Order, (Order entered Oct. 24, 2012). By using the Orders and guidelines procedure, the Commission could implement some of these changes before the summer as other efforts, including legislative proposals, continue. As to accelerating the switching time frame, more information and consideration of the consumer protections is needed before selecting a specific time period for accelerated switching or implementation. A working group process may be needed where all information can be shared and processes can be developed for accelerated switching. A final Rulemaking can then be conducted when all issues, information, and necessary changes are identified and agreed upon.

In these Comments, the OCA makes specific recommendations regarding the Commission's proposals to strengthen and clarify them. The OCA has attached a modified Annex A showing all of the OCA's recommendations. In this document, the Commission's proposed additions are shown with the bold font and underline removed. The OCA has also removed the Commission's proposed deletions. The OCA has underlined its proposed additions or retentions and used strike through to show the OCA's proposed deletions. These recommendations should be included whether the proposed Rulemaking procedure or Order and

² Docket No. M-2011-2270442, Final Order, (Order entered Oct. 25, 2012).

³ Docket No. M-2010-2185981, Final Order, (Order entered Nov. 5, 2010).

guidelines procedure is used. The OCA looks forward to working with all stakeholders to improve the retail choice market for consumers.

II. COMMENTS BY INDIVIDUAL SECTION

A. Proposed Section 57.172

Proposed Section 57.172(1) provides that when a customer contacts an EDC to request a switch from the current Electric Generation Supplier (EGS) product or default service provider to a new selected EGS product, the EDC shall notify the customer that he/she should contact the EGS offering the selected product to initiate the change. The OCA agrees with this provision as long as it is clear it applies to a switch to an EGS product.

The OCA also strongly supports the addition of Proposed Section 57.172(2). Under this provision, any customer who wishes to return to default service is able to do so by contacting their EDC. The electric distribution companies that provide default service are subject to Commission regulation for all service rendered, including customer service. The OCA submits that every consumer should have the right to return to default service by contacting their default service provider and making the request. One of the significant problems reported to the OCA by customers on variable rates was the inability to contact the Call Center of the EGS. Some customers reported wait times of up to three hours. When trying to contact the EGS, other customers were sent to voice mail and never heard back from the EGS. No customer should be required to wait excessive periods of time for a supplier to answer their call, as they did during January and February 2014, to exercise their right to return to default service.

Proposed Section 57.172(2) also requires default service providers to notify customers that there may be a “financial penalty” associated with terminating service with the current EGS product. The OCA submits that the use of the term “financial penalty” is confusing and

inaccurate. While it is reasonable to require the default service provider to remind consumers of potential “cancellation fees” or “early termination fees” to ensure that consumers are making informed decisions, consumers will not be familiar with the term “financial penalty.” The OCA submits that the words “financial penalty” should be replaced with “cancellation fee” or “early termination fee.” The words “cancellation” and “early termination” fees have been routinely used by the Commission in the past, are the terms used in the disclosure statements, and will be the terms used in the Commission’s proposed Contract Summary at Docket No. L-2014-2409385. Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms, Proposed Rulemaking, (entered March 19, 2014). Consumers will understand these terms, so the proposed section should reflect this common language.

Additionally, the OCA submits that the term “default service supplier” was inappropriately used in Section 57.172(2) when referring to the default service provider. “Default service provider” is the defined term. As such, the word “supplier” should be replaced with the word “provider” in several places. Subject to these minor modifications, the OCA submits that the Commission should issue an Order or definitive guidelines to implement the proposed Section 57.172(2) regulations as follows:

When a customer or person authorized to act on the customer’s behalf orally contacts the default service ~~supplier~~ provider to request a switch from the current EGS product to default service, the default service ~~supplier~~ provider shall notify the customer that there may be a ~~financial penalty~~ cancellation fee or early termination fee associated with terminating service with the current EGS product. Subsequent to this notice and given express oral consent from the customer, the default service ~~supplier~~ provider shall enroll the customer onto default service.

The OCA submits that this language will better ensure that the proper information is provided to the consumer.

B. Proposed Section 57.173

Proposed Section 57.173 establishes the standards to be followed when a customer contacts an EGS to request a change in electric supply service. Consistent with the addition of Section 57.172(2) (relating to customer contacts with the EDC), the OCA first proposes that the Commission add language to 57.173 requiring EGSs to notify customers requesting a change in electric supply service that there may be a “cancellation fee” or “early termination fee” associated with switching service from one EGS to a new EGS. Again, this requirement will help to ensure that consumers are making informed decisions. This requirement does not apply if the customer is switching from default service to an EGS, because there are no cancellation fees for default service.

The OCA is concerned, however, that the Commission’s proposed section seems to remove the consumer verification requirement for a switch of service. The OCA respectfully submits that the Commission should not remove the provision requiring confirmation or authorization as the Commission proposes. Requiring confirmation from consumers prior to switching suppliers is an important consumer protection. This provision helps to prevent unauthorized or mistaken switches. The OCA submits that this requirement should remain.

The OCA further notes that Section 57.173(1) is confusing as written. First, the clause related to “customer consent or a future date ...” does not seem to follow. It is possible that the word “or” should be “of,” but even this modification does not clarify the sentence. The OCA submits that the Commission should revisit these sentences to clarify the intent.

Second, it is the OCA's reading of the last sentence of this subsection that it attempts to eliminate the required 3-business day rescission period provided in the existing regulations at 52 Pa. Code Section 54.5(d), unless the customer explicitly consents to the 3-day right of rescission. To the extent that this interpretation was the intent of the Commission, the OCA objects to Section 57.173(1) in the strongest terms. Any suggestion that a customer can waive the 3-day right of rescission either directly or indirectly violates Pennsylvania law, conflicts with Section 54.5(d), and is against sound public policy. The 3-day right of rescission is created by Statute in Pennsylvania. See 73 P.S. § 201-7 (a). Under the Unfair Trade Practices and Consumer Protection Law, consumer may only waive the 3-day right of rescission in order to address an emergency situation related to the buyer's residential real property. See 73 P.S. § 201-7, (j.1) (1) – (iii). Switching electric generation providers does not meet this standard. As such, any proposed or offered waiver of the 3-day right of rescission associated with switching electric generation suppliers would violate Pennsylvania law. Consistently, Section 54.5(d) provides:

Customers shall be provided a 3-day right of rescission period following receipt of the disclosure statement.

- (1) The 3-day right of rescission is 3 business days.
- (2) The 3-day right of rescission begins when the customer receives the written disclosure.
- (3) The customer may cancel in writing, orally or electronically, if available.
- (4) Waivers of the 3-day right of rescission are not permitted.

52 Pa Code § 54.5(d).

The 3-day rescission period is a right that protects consumers. Requiring consumers to provide consent before they can exercise this right is the same as providing that consumers waive their right to the 3-day rescission period if they do not expressly indicate their desire to exercise that right or if they do not fully understand this right. Waivers of the 3-day right of rescission are

expressly prohibited by statute in Pennsylvania and in Section 54.5(d).⁴ The last sentence should be removed in its entirety as it is confusing and suggests a waiver that is not permitted under Pennsylvania law.

Additionally, the OCA recommends that the Commission reconsider the removal in Section 57.173(2) of the 5- day⁵ confirmation period during which a consumer may cancel the order before the change to an EGS takes place if the customer did not authorize the switch. This is particularly problematic as proposed Section 57.173 also eliminates the requirement of receiving oral or written confirmation for the switch. As the OCA pointed out in its December 10, 2012 comments to the Commission's Interim Guidelines Regarding Standards for Changing a Customer's Electricity Generation Supplier Tentative Order,⁶ the 5-day confirmation period allows a customer whose service is to be switched to contact the EDC to dispute that consent was given for the transfer of his or her service. Section 2807(d)(1) seeks to ensure that the EDC "does not change" the customer's service without consent. 66 Pa.C.S. § 2807(d)(1). As the Commission noted in its RMI Tentative Order, it is much easier and cheaper for the EDCs, EGSs, and customers to prevent an unauthorized or mistaken switch than to correct such a switch

⁴ On March 19, 2014, the Commission issued a Secretarial Letter to inform licensed EGSs, the OCA, and the OSBA that the Commission intends to promulgate a rulemaking which will amend existing Regulations at 52 Pa. Code, Chapter 54 to revise disclosure statement requirements for residential and small business consumers. The OCA notes, however, the draft of the proposed regulations attached to the Secretarial Letter does not modify Section 54.5(d).

⁵ The confirmation period gives customers the opportunity to cancel a switch to prevent "slamming" prior to making the switch. In the current draft of the proposed regulations, the Commission indicates its intent to remove the ten (10) day confirmation period. The PUC considered the issue of switching timeframes in its Electric Retail Market Investigation. Investigation of Pennsylvania's Retail Electricity Market, Docket No. I-2011-2237952, Final Order, 66-67 (order entered Feb. 15, 2013). As an interim measure, the Commission adopted guidelines that shortened the switching process by replacing the previous ten day confirmation period with a five day confirmation period. Thus, the OCA's comments refer to the inclusion of a 5-day confirmation period, rather than a 10-day confirmation period.

⁶ Docket No. M-2011-2270442, Tentative Order, (order entered Nov. 14, 2011).

after it occurs. Investigation of Pennsylvania's Retail Electricity Market, Docket No. I-2011-2237952, Tentative Order, 10 (order entered November 8, 2012). The Tentative Order provides:

The time and expense of switching a customer back to a previous supplier, correcting the billing, and reimbursements (not to mention possible involvement by the regulators and possible sanctions) far exceed the costs and efforts of preventing a slam.

Id.

The OCA respectfully submits that the Commission should not trade one set of problems for another. Time is necessary for technical process changes, such as interfacing between the EDC and EGS systems, adhering to the PJM rules for scheduling, and allowing time for weekends and holidays. The OCA submits that eliminating the important consumer protection of a 5-day period for confirmation for a minimal gain in time would not be in the best interest of customers and would not be in the best interests of retail competition.

To implement all of the OCA's recommendations regarding this section, the OCA proposes modifying Section 57.173, as follows:

When a customer or a person authorized to act on the customer's behalf contacts an EGS to request a switch from the current EGS product or default service provider to a new selected EGS product, upon receiving direct oral confirmation or written authorization from the customer to change the EGS, the following actions shall be taken by the EGS offering the selected EGS product and the customer's EDC:

(1) The EGS offering the selected EGS product shall: i) notify the customer that there may be cancellation fees or early termination fees associated with terminating service with the customer's current EGS, and ii) notify the EDC of the customer's EGS selection at the end of the 3-business day rescission period provided in § 54.5(d) with customer consent or a future date that will initiate supply service with the selected EGS product on the date specified by the customer. If no consent for the 3 business day hold or other delay is given by the customer, then the EGS offering the selected EGS product shall notify the EDC by the end of the next business day following the customer contact.

(2) Upon receipt of this notification, or notification that the customer has authorized a switch to default service, the EDC shall send the customer a confirmation letter noting the proposed change of EGS or EGS product, or the switch to default service. This letter shall include notice of a 5-day period in which the order may be canceled before the change of the EGS takes place. The notice shall include the date service with the new selected EGS product or default service will begin unless the customer contacts the EDC to cancel the change. The 5-day period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of an EGS.

C. Proposed Section 57.174

1. 3-Day Switching Requirement

Section 57.174 is captioned "Time frame requirement." The OCA supports the Commission's efforts to accelerate the switching process if it can be achieved at a reasonable cost and without compromising consumer protection. Lengthy switching delays can result in some customer frustration and a reduction in attained savings. The OCA, however, submits that switching should be accelerated only to the extent practical and reasonable, which requires further investigation. The OCA recommends that the Commission investigate the cost of accelerated switching, determine the level of the cost, and how these costs will be recovered in order to determine whether this provision will benefit consumers. Moreover, as discussed above, the OCA submits that accelerated switching should not interfere with a consumer's right of rescission and 5-day confirmation period for unauthorized switches. Until such investigations are made and the legislative process concludes, the OCA cannot support a reduction in the switching time frame to 3 days. If the Commission wishes to change some language to provide flexibility to accelerate switching as more information becomes known, the OCA recommends that the 3-day time period be removed and a phrase like "as soon as feasible" be inserted. The OCA recommends modifying Section 57.174(1) as follows:

When a customer or authorized party has provided the EGS offering the selected EGS product with oral confirmation or written authorization to select the new EGS product or move from default service, or a customer or authorized party has provided the current EGS with oral confirmation or written authorization to return the customer to default service, consistent with electric data transfer and exchange standards, the EDC shall make the change ~~within 3 calendar days of the~~ as soon as feasible after receipt by the EDC of the electronic enrollment transaction.

This language will provide flexibility to respond to information developed through these processes regarding accelerated switching. The OCA also recommends that a working group be convened to consider the cost information and logistics of accelerating switching.

2. Meter Reading Requirement

Section 57.174(2) requires EDCs to obtain meter reads to effectuate the switch of EGS services within 3 calendar days of the receipt by the EDC of the electronic enrollment transaction. Under this provision, an estimated meter read is permissible in instances where the EDC does not have advanced or automated metering capability. Section 57.174(2) provides, “In instances where estimates are used, the estimated meter read shall be updated when an actual meter read is obtained to reflect the customer’s actual usage through the customer’s normal meter read cycle.” While the OCA supports the Commission’s efforts to improve the efficiency of customer switching, the OCA submits that the implementation of this regulation requires further fact-finding to determine how this can be accomplished, at what cost, and with what type of accuracy. The formulas and processes for estimating usage will need specific attention and investigation given the potential bill impacts. Particularly when variable rates are involved that change monthly, an incorrect estimate or multi-month estimates could significantly impact the benefit of an introductory price and increase the cost of a subsequent price spike. It must be recognized that not every EDC reads meters on a monthly basis, further compounding these

potential problems. For example, the OCA is aware of several situations occurring this past winter with estimated meter reads. Several customers informed the OCA that they received estimated usage for several months in a row that corresponded to the introductory period. This resulted in low bills for several months preceding the January price spike, because of low estimated usage. Following an actual meter read in January, however, the consumers' usage was trued up, and the full impact of this true up was billed in one month at the highest January price. Further consideration and understanding of this proposal to use estimates is needed before it can be determined if it is a reasonable approach. This issue may also be appropriate for the working group recommended by the OCA.

D. Section 57.175

The Commission proposes to remove Section 57.175, which allows a customer to identify persons authorized to make changes to the customer's account with proper documentation. The OCA does not see any purpose or reason for the removal of Section 57.175. With the number of scams that have been reported in the press and to the OCA and the Commission about the sale of electricity, it does not seem reasonable to remove this protection. If the intent is to state that only the customer can authorize a switch, modifications could be made to achieve this purpose. The OCA submits, though, that requiring signed documents for a customer to identify persons authorized to make changes on their behalf is an important consumer protection. The OCA submits that this provision should be retained.

E. Proposed Section 57.177

Proposed Section 57.177(2) provides, "This subchapter does apply when the customer elects to receive service from the default service provider." It is not clear to the OCA the purpose of this additional language. In the subsections that specifically apply to default service,

the subsection refers to default service. This type of “catch all” provision may cause confusion and should be removed.

F. Proposed Section 57.178

The proposed regulations add Section 57.178(2), regarding record retention of customer contacts with the default service provider. Section 57.178 provides:

The default service provider shall retain all records relating to situations described in § 57.172 for 3 years from the date of the customer contact with the default service provider. These records shall be made available to the Commission or its staff upon request.

It is not clear to the OCA why this provision is being added and whether it conflicts with any other record retention requirements of the EDCs. At this time, the OCA recommends removal of this provision to avoid conflict with other record retention requirements.

III. CONCLUSION

The OCA thanks the Commission for its efforts in addressing the impact of wholesale electricity market price increases on Pennsylvania consumers. The OCA submits that accelerated switching should be considered as part of a comprehensive plan to address these issues after determination of the costs, the benefits, and the necessary consumer protections. The OCA respectfully requests the Commission to consider the OCA's comments as the Commission reaches its conclusions on this matter. The OCA looks forward to working with all stakeholders to accomplish these goals.

Respectfully Submitted,



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DATED: March 25, 2014
00180915

OCA PROPOSED MODIFICATIONS

ANNEX A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED UTILITY SERVICE

CHAPTER 57. ELECTRIC SERVICE

Subchapter M. STANDARDS FOR CHANGING A CUSTOMER'S ELECTRICITY GENERATION SUPPLIER

§ 57.171. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. § § 2801—2812.

Customer—A purchaser of electric power in whose name a service account exists with either an EDC or an EGS. In addition, the term includes all persons authorized to act on a customer's behalf.

Default service provider—As defined by 66 Pa. C.S. § 2803.

EDC—*Electric distribution company*—An electric distribution company as defined in section 2803 (relating to definitions).

EGS—*Electric generation supplier*—A supplier as defined in section 2803 of the act.

Current EGS Product—the EGS product at the time of the customer contact.

Selected EGS Product—the EGS product from which the customer seeks new electric supply service.

§ 57.172. Customer contacts with the EDC.

(1) When a customer or a person authorized to act on the customer's behalf orally contacts the EDC to request a switch from the current EGS product or default service provider to a new selected EGS product, the EDC shall notify the customer that the EGS offering the selected EGS product shall be contacted directly by the customer to initiate the change. This requirement does not apply in the context of a Commission-approved program that requires the EDC to initiate a change in EGS service.

OCA PROPOSED MODIFICATIONS

(2) When a customer or person authorized to act on the customer's behalf orally contacts the default service ~~supplier~~ provider to request a switch from the current EGS product to default service, the default service ~~supplier~~ provider shall notify the customer that there may be a ~~financial penalty~~ cancellation fee or early termination fee associated with terminating service with the current EGS product. Subsequent to this notice and given express oral consent from the customer, the default service ~~supplier~~ provider shall enroll the customer onto default service.

§ 57.173. Customer contacts an EGS to request a change in electric supply service [with EGSs].

When a customer or a person authorized to act on the customer's behalf contacts an EGS to request a switch from the current EGS product or default service provider to a new selected EGS product, upon receiving direct oral confirmation or written authorization from the customer to change the EGS, the following actions shall be taken by the EGS offering the selected EGS product and the customer's EDC:

(1) The EGS offering the selected EGS product shall: i) notify the customer that there may be cancellation fees or early termination fees associated with terminating service with the customer's current EGS, and ii) notify the EDC of the customer's EGS selection at the end of the 3-business day rescission period provided in § 54.5(d) with customer consent or a future date that will initiate supply service with the selected EGS product on the date specified by the customer. ~~If no consent for the 3-business day hold or other delay is given by the customer, then the EGS offering the selected EGS product shall notify the EDC by the end of the next business day following the customer contact.~~

(2) Upon receipt of this notification, or notification that the customer has authorized a switch to default service, the EDC shall send the customer a confirmation letter noting the proposed change of EGS or EGS product, or the switch to default service. This letter shall include notice of a 5-day period in which the order may be canceled before the change of the EGS takes place. The notice shall include the date service with the new selected EGS product or default service will begin unless the customer contacts the EDC to cancel the change. The 5-day period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of an EGS.

§ 57.174. Time[]frame requirement.

(1) When a customer or authorized party has provided the EGS offering the selected EGS product with oral confirmation or written authorization to select the new EGS product or move from default service, or a customer or authorized party has provided the current EGS with oral confirmation or written authorization to return the customer to default service, consistent with electric data transfer and exchange standards, the EDC shall make the change ~~within 3 calendar days of the~~ as soon as feasible after receipt by the EDC of the electronic enrollment transaction.

OCA PROPOSED MODIFICATIONS

(2) The EDC shall obtain a meter read to effectuate the switch of EGS service within the time period provided for in paragraph (1). In instances where the EDC does not have advanced or automated metering capability, the EDC shall obtain an actual meter read, use an estimated meter read or use a customer-provided meter read. In instances where estimates are used, the estimated meter read shall be updated when an actual meter read is obtained to reflect the customer's actual usage through the customer's normal meter read cycle.

* * * * *

§ 57.175. Persons authorized to act on behalf of a customer.

A customer may identify persons authorized to make changes to the customer's account. To accomplish this, the customer shall provide the EDC with a signed document identifying by name those persons who have the authority to initiate a change of the customer's EGS.

§ 57.176. Valid written authorization.

* * * * *

§ 57.177. Customer dispute procedures.

* * * * *

§ 57.178. Default service provider.

(1) This subchapter does not apply when the customer's service is discontinued by the EGS and subsequently provided by the default service provider because no other EGS is willing to provide service to the customer.

~~(2): This subchapter does apply when the customer elects to receive service from the default service provider.~~

§ 57.179. Record maintenance.

OCA PROPOSED MODIFICATIONS

(1) Each EDC and each EGS shall preserve all records relating to unauthorized change of EGS disputes for 3 years from the date the customers filed the dispute. These records shall be made available to the Commission or its staff upon request.

~~(2) The default service provider shall retain all records relating to situations described in § 57.172 for 3 years from the date of the customer contact with the default service provider. These records shall be made available to the Commission or its staff upon request.~~

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