**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held July 21, 2016

Commissioners Present:

Gladys M. Brown, Chairman

Andrew G. Place, Vice Chairman

John F. Coleman, Jr.

Robert F. Powelson

David W. Sweet, Absent

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| Investigation of Pennsylvania’s Retail Electric Market | I-2011-2237952  L-2014-2409383 |

**FINAL ORDER**

Before the Pennsylvania Public Utility Commission (Commission) is a recommendation from the Commission’s Office of Competitive Market Oversight (OCMO) to provide electric distribution companies (EDCs) with a three-year waiver of the Commission’s regulations at 52 Pa. Code § 57.173(2) in situations where a customer is requesting an *instant connect*. An *instant connect* is the initiation of supply service on the first day of new utility service, without the customer first having to go on EDC-provided default service. Through this Final Order, we authorize a temporary, limited waiver permitting EDCs to delay the sending of confirmation letters in the context of electric generation supplier (EGS) enrollments using the instant connect process.

# BACKGROUND

By order entered on April 29, 2011, the Commission launched its *Investigation of Pennsylvania’s Retail Electricity Market* (Electric RMI), directing OCMO to develop recommendations for improvements to ensure that a properly functioning and workable competitive retail electricity market exists in Pennsylvania.[[1]](#footnote-1) On February 15, 2013, the Commission entered its Electric RMI Final Order (*RMI Final Order*).[[2]](#footnote-2) In its *RMI Final Order,* this Commission instructed EDCs to submit, by the end of 2013, plans outlining the implementation of seamless moves[[3]](#footnote-3) and instant connects in their service territories by June 1, 2015.

Pursuant to the Commission’s *RMI Final Order,* Duquesne Light Company; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power; PECO Energy Company; Pike County Light and Power Company; PPL Electric Utilities Corporation; and UGI Utilities, Inc. – Electric Division submitted compliance filings in December of 2013.[[4]](#footnote-4) Citizens’ Electric Company of Lewisburg, PA and Wellsboro Electric Company were provided with a temporary waiver of the seamless moves and instant connects directives.[[5]](#footnote-5)

Subsequent events caused the Commission to modify the implementation timelines for these new market enhancements. Specifically, on April 3, 2014, the Commission promulgated new regulations directing the EDCs to develop three business day supplier switching timeframes.[[6]](#footnote-6) Implementation of the three business day switch went into effect on December 14, 2014. The Commission acknowledged that the implementation of three business day supplier switching required significant effort by the EDCs and that the timely development of three business day switching was a priority over instant connects and seamless moves. Therefore, this Commission, via an August 13, 2014 Secretarial Letter, permitted the EDCs to delay the development of instant connects and seamless moves if an EDC determined that developing these processes could hinder or delay the development of three business day supplier switching.[[7]](#footnote-7)

On March 20, 2015, the Commission issued a Secretarial Letter directing EDCs to file revised plans to implement, by June 1, 2016, seamless moves and instant connects.[[8]](#footnote-8) EDCs were directed to demonstrate in their plans how they will achieve seamless moves and instant connects and their timeframes for meeting a July 1, 2016 implementation deadline. Each plan was also expected to include an estimate of the costs to design, test, implement and maintain seamless moves and instant connects, and proposals for the recovery of those costs. The EDCs submitted their revised plans on April 20, 2015.[[9]](#footnote-9)

In preparation for the implementation of the seamless move and instant connect functionalities in July and September of 2016, OCMO engaged in routine, informal calls with the EDCs to obtain progress updates. Through these calls, OCMO became aware of a potential issue regarding the requirement that EDCs provide confirmation letters in instant connect situations. Specifically, the Commission’s regulations at 52 Pa. Code § 57.173(2) state the following:

**§ 57.173. Customer contacts the EGS to request a change in electric supply service.**

When a customer contacts an EGS to request a change from the current EGS or default service provider to a new selected EGS, the following actions shall be taken by the selected EGS and the customer’s EDC:

(1) The selected EGS shall notify the EDC of the customer’s EGS selection at the end of the 3-day business rescission period under § 54.5(d) (relating to disclosure statement for residential and small business customers) or a future date specified by the customer. The selected EGS may notify the EDC by the end of the next business day following the customer contact upon customer consent.

(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 change to default service. The notice must include the date service with the new selected EGS or default service provider will begin. **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 or default service provider**.

52 Pa. Code § 57.173 (Emphasis added).

As previously noted, instant connects are the initiation of supply service on the first day of new utility service, without the customer first having to go on EDC-provided default service. Frequently, customers notify their new utility in advance of moving into their new residence/business to ensure the availability of electric service when they move. Customers may also notify their selected EGS in advance of moving, to ensure they are receiving their competitive supply service as soon as possible at their new location. In such a scenario, as outlined in the regulations, an EDC would be required to mail, by the end of the next business day, a confirmation letter to the mailing address on the new account. 52 Pa. Code § 57.173(2). In an instant connect scenario, that mailing address will most likely be the new residence/business where the customer will be receiving service. In many instances, the customer will not yet reside or be operating at that new residence. Therefore, the letter would either be delivered to someone other than the customer of record or be returned to the utility.

This inability to provide the confirmation letter directly to the appropriate customer defeats the purpose of the letter. Therefore, in our May 19, 2016 *Tentative Order*,[[10]](#footnote-10) we proposed that the provision outlined at 52 Pa. Code § 57.173(2) be temporarily waived in instant connect scenarios for a period of no longer than three years. During this three-year waiver period, the confirmation letter would be mailed by the end of the next business day after the start of service at the new account location. In such cases, it is anticipated that the customer will be in residence or operating at the new location and able to receive the confirmation letter directly.

We proposed a three-year waiver period in order to provide adequate time to observe the implementation of both instant connects and seamless moves to determine if the notification process proposed in this waiver is adequate and appropriate. We further anticipated modifying the regulations in Chapter 57 to reflect an environment that includes seamless moves and instant connects, but opined that an appropriate amount of time must be afforded to implement and review these procedures before establishing a new binding norm.

The following five parties filed comments in response to the Tentative Order: Citizen Power; the Energy Association of Pennsylvania (EAP); Duquesne Light (Duquesne); Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company (collectively FirstEnergy); and PECO Energy Company (PECO).

**Summary of Comments**

EAP suggests allowing the EDC to make a choice between implementing their instant connect processes as designed with the present 52 Pa. Code § 57.173(2) regulations in mind, or by electing to mail the confirmation letter after the start of service at the new account location. EAP Comments at 3. EAP states that experience will demonstrate whether there is a need to alter the requirement and, if the Commission allows for alternative approaches, any amendment to the regulations will be supported by a comparison of actual results. *Id.*

Duquesne supports OCMO’s proposal with a minor modification. Duquesne believes that for instant connects, for the next three years, EDCs should be given flexibility to send confirmation letters either by the end of the next business day following receipt of notification from the EGS or by the end of the next business day after the start of service at a new account location. Duquesne Comments at 2. Duquesne opines that that allowing flexibility for instant connect situations during the three-year period will allow for more meaningful comparisons of the two procedures. *Id.* at 3.

FirstEnergy supports the Commission's proposal for a waiver of the regulation at 52 Pa. Code § 57.173(2) for three years – stating that a three-year period provides sufficient time for the Commission and affected parties to evaluate whether the instant connects procedures are working as anticipated and determine whether the Commission’s regulations should be formally amended. First Energy Comments at 2.

PECO reports that about 77% of customers call three days or less before their desired connect date which means the confirmation letter sent to the new-service address will be received by a large majority of customers at their new address. PECO Comments at 7. When PECO asks for a billing address, about 60% of customers establishing service at a new location will use that new address. *Id.* PECO also notes that it has already deployed its solution for instant connects by way of an IT software push on June 10, 2016 to meet its July 1, 2016 implementation commitment. The proposed changed to section 52 Pa. Code § 57.173(2) will require PECO another period of IT redesign and implementation. *Id.* at 8. For these reasons PECO suggests that there should be a period of observation and data collection about the prevalence of mail issues with instant connect notification before proceeding with the temporary rule change as proposed.

Citizen Power agrees with the Commission’s reasoning for waiving 52 Pa. Code § 57.173(2). However, Citizen Power, as an alternative, proposes that the confirmation letter should be mailed by the end of the business day on the date of the start of service at the new account location or by the end of the next business day following the receipt of the notification of the customer’s selection of an EGS, whichever date is latest. Citizen Power Comments at 2. In addition, Citizen Power proposes that the Commission direct electric distribution companies to send, in addition to the confirmation letter, an electronic mail version of the confirmation letter to any customer that has provided the electric distribution company their email address. *Id.*

**DISCUSSION**

We thank the parties for their helpful and informative comments. Upon careful review and consideration of the arguments presented, we are persuaded that a flexible approach, as advocated by EAP, PECO and Duquesne is appropriate. We acknowledge that the EDCs, as PECO points out, may already have the programming and procedures in place to implement instant connect functionality, and that any change at this point may delay that implementation. We also find persuasive the data presented by PECO indicating that the majority of new customers set up their new account within three days of their desired connect date. If this is so, then the current timeframes for sending confirmation letters should result in most customers getting their confirmation letter in a timely manner. We also find merit in the suggestions of EAP and Duquesne that a flexible approach will allow EDCs, the Commission and other parties to evaluate and compare over the next three years the varying procedures and timeframes used by the EDCs – and then determine what amendments to the regulations are needed.

Accordingly, we will put in place a temporary, three-year waiver that permits, but does not require, an EDC to hold the confirmation letter until after a customer is in residence at their new address. In effect, the requirement at 52 Pa. Code § 57.173(2) would be as follows:

(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 change to default service. The notice must include the date service with the new selected EGS or default service provider will begin. 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 or default service provider. *In the alternative, the EDC may wait until service commences at the new address before mailing the letter.*

We emphasize that this waiver is permissive – the EDC is free to either mail the letter by the end of the next business day per the current regulation or it can wait until service has started at the new address. The EDC must choose one of the options, not both; however, an EDC is free, upon notice to the Commission, to change the option it exercises during the course of this three-year waiver.

During the course of this three-year waiver, we expect EDCs to monitor the effectiveness of their confirmation letter procedures – specifically, are there indications, such as returned mail or customer complaints, that instant connect customers are not receiving their confirmation letters? To that end, the Commission will require the EDCs to track the number of confirmation letters sent and the number of confirmation letters returned. This information must be filed yearly (by January 31, 2017, 2018 and 2019) with the Secretary’s Bureau in the Investigation Docket (I-2011-2237952) and by email to OCMO, [RA-OCMO@pa.gov](mailto:RA-OCMO@pa.gov). This data will allow the Commission to determine the efficacy of each option.

OCMO will also remain in informal contact with the EDCs during this waiver period to obtain information from the EDCs as to the implementation of instant connect functionality and any problems with the confirmation letter process. OCMO and the Commission’s Bureau of Consumer Services will likewise monitor informal and formal complaint activity to determine if there is any indication that instant connect customers are not receiving confirmation letters. As the expiration of the three-year period approaches, OCMO will develop a recommendation to the Commission as to the need to revise the switching regulations to accommodate instant connects and seamless moves. This recommendation can also include any other switching-related matters, such as the use of electronic means to notify consumers as suggested by Citizen Power. While we think Citizen Power’s ideas about electronic notification may have some merit, this proposal goes beyond the scope of the instant waiver proceeding.

# CONCLUSION

Through this Final Order, the Commission grants temporary waiver of its regulations at 52 Pa. Code § 57.173(2) regarding the EDC provision of confirmation letters in instances in which a customer requests an instant connect. This waiver is solely for instant connect scenarios. Under this waiver, an EDC can either mail the confirmation letter by the end of the next business day following the receipt of the notification of the customer’s selection of an EGS or may wait until service commences at the new address before mailing the letter. The waiver will be effective for three years from the entry date of this order. The EDCs will track the number of confirmation letters sent and the number of confirmation letters returned in each calendar year and file this data with the Secretary’s Bureau in the Investigation Docket (I-2011-2237952) and by email to OCMO, [RA-OCMO@pa.gov](mailto:RA-OCMO@pa.gov). This information must be filed annually for three years, starting January 31, 2017. As to allow analysis and comparison of the data, the EDC shall indicate in its annual report if the instant connect letters were sent by the end of the next business day or when the new service commences, as permitted by the instant waiver.  As the expiration of the three-year waiver period approaches, OCMO shall develop a recommendation to the Commission as to the need to revise the Chapter 57 EGS switching regulations.

**THEREFORE,**

**IT IS ORDERED:**

1. That a waiver of 52 Pa. Code § 57.173(2) as described in this Final Order is granted for three years in instances where a customer requests an instant connect.

2. That the EDCs track the number of confirmation letters sent and the number of confirmation letters returned in each calendar year and file this data annually (by January 31, 2016, 2017 and 2018) with the Secretary’s Bureau in the Investigation Docket (I-2011-2237952) and by email to OCMO, [RA-OCMO@pa.gov](mailto:RA-OCMO@pa.gov). The EDC shall indicate in the annual report if the confirmation letters were sent by the end of the next business day or when the new service commences, as permitted by the instant waiver.

3. That this Final Order be served on all jurisdictional Electric Distribution Companies, all licensed Electric Generation Suppliers, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the parties who filed comments at Docket Nos. I‑2011‑2237952 and L‑2014‑2409383.

4. That a copy of this Order be posted on the Commission’s website at the Office of Competitive Market Oversight’s web page at <http://www.puc.pa.gov/utility_industry/electricity/electric_competitive_market_oversight.aspx>.

5. That the Office of Competitive Market Oversight shall electronically serve a copy of this Final Order on all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: July 21, 2016

ORDER ENTERED: July 21, 2016

1. *See Investigation of Pennsylvania’s Retail Electricity Market*, Docket No. I-2011-2237952 (Order entered Apr. 29, 2011). [↑](#footnote-ref-1)
2. *See Investigation of Pennsylvania’s Retail Electricity Market: End State of Default Service*, Docket No. I-2011-2237952 (Final Order entered Feb. 15, 2013). [↑](#footnote-ref-2)
3. A *seamless move* is the ability of a customer’s choice of supplier to move with the customer to a new address within a single service territory without interruption. [↑](#footnote-ref-3)
4. *See PECO Energy Company’s Plan for Accomplishing Seamless Moves and Instant Connects*, Docket No. M-2014-2401085 (Filed Dec. 18, 2013); *Summary Plan for the Implementation of Seamless Moves and Instant Connects – UGI Utilities, Inc. – Electric Division*, Docket No. M-2014-2401126 (Filed Dec. 20, 2013); *Pike County Light & Power Company’s Plan to Implement Seamless Moves and Instant Connects*, Docket No. M-2014-2401119 (Filed Dec. 30, 2013); *Seamless Moves/Instant Connects Implementation Plan for Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company*, Docket Nos. M-2014-2401130, M-2014-2401155, M-2014-2401151 and M-2014-2401148 (Filed Dec. 31, 2013); *Duquesne Light Company’s Compliance Filing Regarding Implementation of Seamless Moves and Instant Connects*, Docket No. M-2014-2401127 (Filed Dec. 31, 2013); *PPL Electric Utilities Corporation Compliance Filing Plan for Implementing Seamless Moves and Instant Connects*, Docket No. M-2014-2401103 (Filed Dec. 31, 2013). [↑](#footnote-ref-4)
5. *See Joint Petition of Citizens’ Electric Company of Lewisburg, PA and Wellsboro Electric Company for their Default Service Program for the Period June 1, 2015 through May 31, 2018*, Docket Nos. P-2014-2425024 and P-2014-2425245 (Opinion and Order entered Feb. 27, 2015). [↑](#footnote-ref-5)
6. *See Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 57 Regulations Regarding Standards for Changing a Customer’s Electricity Generation Supplier*, Docket L-2014-2409383(Final-Omitted Rulemaking Order entered Apr. 3, 2014). [↑](#footnote-ref-6)
7. *See* *EDC plan filings for Seamless Moves and Instant Connects*, Docket No. M-2014-2401127 (Secretarial Letter served Aug. 13, 2014). [↑](#footnote-ref-7)
8. *See* *EDC plan filings for Seamless Moves and Instant Connects*, Docket No. M-2014-2401127 (Secretarial Letter served Mar. 20, 2015). [↑](#footnote-ref-8)
9. *See Duquesne Light Company’s Revised Plan Regarding Implementation of Seamless Moves and Instant Connects*, Docket No. M-2014-2401127 (Filed Apr. 20, 2015); *Seamless Moves/Instant Connects Revised Implementation Plan for Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company*, Docket Nos. M-2014-2401130, M-2014-2401155, M-2014-2401151 and M-2014-2401148 (Filed Apr. 20, 2015); *PECO Energy Company’s Revised Plan for Accomplishing Seamless Moves and Instant Connects*, Docket No. M-2014-2401085 (Filed Apr. 20, 2015); *Pike County Light & Power Company’s Plan to Implement Seamless Moves and Instant Connects*, Docket No. M-2014-2401119 (Filed Apr. 20, 2015); *PPL Electric Utilities Corporation Compliance Filing Plan for Implementing Seamless Moves and Instant Connects for Metered Accounts*, Docket No. M-2014-2401103 (Filed Apr. 20, 2015); *UGI Utilities, Inc. – Electric Division Revised Plan for Implementing Seamless Moves and Instant Connects*, Docket No. M-2014-2401126 (Filed Apr. 20, 2015). [↑](#footnote-ref-9)
10. *See Investigation of Pennsylvania’s Retail Electricity Market*, Docket No. I-2011-2237952 and L-2014-2409383 (Order entered May 19, 2016). [↑](#footnote-ref-10)