

Alexander C. Stern
Associate General Regulatory Counsel

Law Department
80 Park Plaza, T5G, Newark, NJ 07102-4194
tel: 973.430.5754 fax: 973.430.5983
email: alexander.stern@pseg.com



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BY ELECTRONIC MAIL

Honorable Kristi Izzo
Secretary of the Board
State of New Jersey
Board of Public Utilities
44 South Clinton Ave (9th Floor)
P.O. Box 350
Trenton, NJ 08625-0350
board.secretary@bpu.state.nj.us

**Re: In the Matter of Third Party Suppliers – NJAC 14:4-7 The Board’s Review
Of Consumer Protection Provisions of its Rules Concerning Third Party
Suppliers
BPU Docket Number EX14060579; and**

**In the Matter of the Implementation of Special Rule Adoption in Compliance
With L. 2013, C.263
BPU Docket Number EX14060610**

Dear Secretary Izzo:

Please accept these comments as submitted by Public Service Electric and Gas Company (“PSE&G”) on behalf of six of the seven New Jersey electric and gas local distribution companies: Atlantic City Electric Company (“ACE”), Elizabethtown Gas Company (“ETG”), Jersey Central Power & Light Company (“JCP&L”), PSE&G, Rockland Electric Company (“RECO”), and South Jersey Gas Company (“SJG”) (collectively referred to as the “LDCs”) in connection with the above-referenced matter.¹

¹ It is believed that New Jersey Natural Gas Company will be filing separate comments.

The LDCs agree that concerns expressed with respect to the impact of third party supplier (“TPS”) electricity and natural gas market price increases, particularly as a result of the “polar vortex” event this past winter, on certain segments of shopping customers are valid. The LDCs recommend that the Board of Public Utilities (“Board”) focus on consumer education and transparency with regard to variable rates, particularly considering that customers generally do not know/appreciate how such rates operate or the extent to which the amount of their monthly bill could vary until that month’s bill arrives and charges have already been incurred. With recent renewed consumer interest in exploring energy choice, the LDCs agree that the time is right for renewed consumer education, as it will provide customers with better tools to make informed purchasing decisions. In particular, such education will foster increased customer awareness as to the potential risks associated with variable contract pricing. As a general matter, the LDCs see improved customer education coupled with enhanced contract disclosure obligations for retail suppliers as the most efficacious manner for protecting customers and are available to participate in any discussions Board Staff wishes to coordinate regarding these issues.²

As noted in the Board’s June 24, 2014 notice establishing this stakeholder proceeding, pursuant to L.2013, c. 263, the Board, in consultation with the Division of Consumer Affairs in the Department of Law and Public Safety, is required to adopt “interim advertising and marketing standards for electric power suppliers, gas suppliers, brokers, energy agents, marketers, private aggregators, sales representatives, and telemarketers (‘interested entities’) applicable to potential residential customers.” These standards must include, but are not limited

² If the Board decides that LDCs should be part of the consumer education process, then the Board must allow the LDCs to recover the incremental costs of their involvement in such process through the Societal Benefits Charge (“SBC”). However, if the Board were to determine that the SBC is not the proper rate clause for recovery of consumer education costs, the Board could allow the LDCs to recover such costs through an alternative clause mechanism.

to, “prohibiting the interested entities from making false or misleading advertising claims to a potential residential customer; or contacting a potential residential customer by telephone for the purpose of making an unsolicited advertisement if the interested entity does not have an existing business relationship with the potential residential customer and the residential customer’s telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs[.]” Put simply, consistent with this charge from the Legislature, the LDCs agree that the Board’s attention should be focused on enabling customers to make the most informed and correct choice for them, rather than focused on how to switch customers back to default service or to another supplier as quickly as possible.

In this regard, it must be emphasized that there are costs associated with every modification to the electronic data platforms, as well as manual systems, utilized by each LDC to facilitate energy choice. Moreover, any substantive process changes need to be thoughtfully implemented as they invariably take time and require IT development and testing before implementation. The Board initiated a comprehensive Customer Account Services (“CAS”) proceeding in 1999 to work with stakeholders and to hold evidentiary proceedings in order to determine the manner and mechanics by which customers may choose a supplier for some or all customer account services.³ The Board also established a CAS Working Group for the purposes of identifying the issues to be addressed and proposing a course of action to resolve those issues. The ultimate result of this process was a series of Board-approved CAS Stipulations of Settlement. Pursuant to these Stipulations, all issues have been subject to re-evaluation. Staff periodically has initiated this re-evaluation process, in an informal working group environment, open to all interested parties. The CAS Working Group, EDI Working Group and other Energy

³ These services are defined by law as metering, billing and other account administration functions. N.J.S.A. 48:3-51.

Choice process meetings have continued to function and be utilized to consider process innovations while giving due consideration to both cost and competing policy concerns.

Over the past four years, the Board has been actively engaged in analyzing its rules and its policies governing energy competition. It has facilitated, through rulemaking and working group processes, several opportunities for stakeholders and Board Staff to evaluate the appropriateness of modifications to the Board's existing Energy Competition Rules at N.J.A.C. 14:4 et seq. as well as prior adjudicatory actions taken in its CAS proceedings. In the last two years alone, the Board has initiated changes that (1) relaxed rescission rules designed to protect customers so that customers only have 7 days instead of 14 days to evaluate and rescind agreements with TPSs; (2) made modifications to the rules governing utility rights to switch a customer to dual billing when arrearage exists; and (3) expanded customer eligibility to switch to a TPS even when the account has significant arrearages.⁴ These actions promoted energy competition while retaining necessary consumer protections. The LDCs have made system changes to comport with the Board's actions.

With this background, the LDCs respectfully urge the Board to exercise caution in making further modifications that would require the LDCs, and by extension, their customers to incur further system change costs in response to a "polar vortex" event that primarily raised issues governing the appropriate relationship between retail TPSs and their shopping customers. The first three months of 2014 were marked by historically cold weather, record high natural gas and electric demand, and record high natural gas prices, which translated into abnormally high electricity prices. The cold weather tested the performance of natural gas and electricity systems

⁴ *In the Matter of the Board's Review of Utility Consolidated Billing and Purchase of Receivables Programs*, BPU Docket No. EO13030236 (Order dated May 29, 2013); *In the Matter of the Readoption of N.J.A.C. 14:4, Energy Competition Standards – Rule Readoption with Amendments*, BPU Docket No. EX11020089 (April 11, 2012); and *In the Matter of the Companion Proposal – Amendments to N.J.A.C. 14:4, Energy Competition Standards – Rule Proposal*, BPU Docket No. EX12020158 (April 11, 2012).

and functioning of markets, which at times came under extreme stress. The LDCs are proud of their achievement in managing the complexities brought about by this year's cold weather. If anything, this past year has demonstrated the success of the Board's processes with respect to the LDCs as all of the LDCs were able to maintain safe and reliable service for customers despite the challenges experienced in the energy marketplace. Moreover, it must be noted that of the hundreds of thousands of customers that have chosen to shop for their energy provider, it is believed that the events of this past winter led to fewer than 5,000 customer complaints, with a significant portion of those complaints directly attributable to a small handful of TPSs and the others simply resulting from choices the customers themselves made.

The LDCs do not seek to minimize the concerns expressed by customers and Board Staff and agree with certain of the positions expressed by the Division of Rate Counsel ("Rate Counsel"), particularly regarding the need for improved disclosure and transparency by TPSs and the imposition of a TPS summary term sheet obligation for TPSs to provide to a switching customer. To that end, the following are proposed options for Supplier marketing enhancements for variable contracts that could be a topic for working group discussion:

1. improved disclosure of price terms through bolder placement or font size;
2. advanced notice of price increases greater than x % month over month; and
3. customer education enhancements describing fixed to variable contract renewal terms as well as benefits/risks of variable rates versus fixed rates on the Board's website and/or in Supplier contracts. This should include start and end dates, contract length requirements and early termination penalty fees.

As noted, the LDCs believe that the focus of this evaluation and process should be on ways of fostering better informed shopping customers and defined rules of the road governing the retail supplier/customer relationship, and not on options that would require costly and significant LDC system programming changes, result in billing based on meter estimations or

reduce existing customer safeguards. The LDCs share the view that expedited switching that would require the LDCs not to use the customer's regularly scheduled meter reading date would impose costly and significant system programming changes and reduce customer safeguards. Moreover, no record has been developed to support such action. It remains imperative, from a cost, system implementation and consumer protection standpoint that customer switches be tied to regularly scheduled meter reading dates.

On the electric side, when a switch takes place today, the minimum length of time for the electric distribution companies ("EDCs") to process the switch is 20 days prior to the scheduled meter read date. However, this period of time was established and programmed into the EDCs' respective billing systems to allow 14 days for a customer to rescind, plus an additional day to account for postal delivery, and 5 days for posting capacity to PJM Interconnection, LLC ("PJM"). Because the Board has reduced the customer's time to consider the terms of its switch to 7 days, the EDCs are open to discussing modifications to process an on-cycle switch in 13 days instead of the 20 days by making programming changes. Recognize, however, that if the Board were to consider lengthening the rescission period, as Rate Counsel suggested in its remarks at the July 17th hearing, from 7 days back to 14 days – a position that the EDCs would support and advocated in the prior proceeding in which the Board ultimately decided to reduce the rescission period -- then the EDCs would be unable to shorten the length of time for processing customer switches.

In the interests of assisting this inquiry further, the LDCs note that the practice of switching on a meter reading date not only protects consumers by providing a greater level of assurance concerning the accuracy of energy usage for billing and service purposes, it also is a standard practice in the utility industry due to the benefit and need for obtaining actual usage

information for the energy settlement process with PJM. Any alteration of this linkage would impact customer billing and generate substantial computer system complexities and associated costs.⁵ Since on demand metering is not currently available to most customers, any mid-cycle switch would require an estimated bill. Switching on the meter reading date minimizes the cost of billing by enabling a single monthly bill to be printed and sent to customers, and facilitating the processing and tracking of switches and the billing of TPS charges (through Purchase of Receivables) to work harmoniously with other billing and collections-related regulations and practices. Altering these processes to accommodate accelerated switching on a date other than the scheduled meter reading date will result in considerable lengthy and costly system and process modifications as well as more confusing bills to customers.

It is also worth mentioning that, with respect to measuring energy usage, there are different considerations for electric and gas. When an electric switch takes place today, at a minimum, a waiting period must be programmed into the EDCs' billing systems to allow 7 days for a customer to rescind, plus an additional day to account for postal delivery, and 5 days for posting capacity to PJM. Gas-switching-timing shares the same issues presented above regarding the linkage to the scheduled meter reading date and time for rescission and notification, but gas has additional considerations due to differences between the electric and gas markets. For example, for PSE&G non-interruptible gas customers, PSE&G presently requires an enrollment to be received by the first business day of a month for the enrollment to be effective on the meter reading date of the subsequent month. This timing has been established in

⁵ JCP&L notes that Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, the "Companies") along with other Pennsylvania Electric Distribution Companies were directed by the Pennsylvania Public Utility Commission ("Commission") within a six month time-frame to accelerate switching timeframes through the use of off-cycle meter reads in a manner that will permit Pennsylvania retail customers to switch suppliers within three business days or less. The Companies are working to meet those time-frames. However, a key difference between New Jersey and Pennsylvania is that Pennsylvania is in the process of implementing smart meters that help allow the utilities to obtain actual reads for any off-cycle switching.

recognition of the following: (1) the mailing of a switch letter per the regulations; (2) time allocated to allow for the customer's right to rescind; (3) the need for the development of accurate daily delivery requirements for suppliers serving non-interruptible customers; and (4) the provision of the daily delivery requirements to suppliers with sufficient lead-time in advance of the next calendar month to enable analysis of the requirements and the procurement of supply (in recognition of the fact that natural gas operates on a calendar month basis, unlike electric). Regarding the development of delivery requirements, as non-interruptible customers do not have hourly meters that enable gas distribution companies ("GDCs") to match supplier deliveries and customer usage on a daily basis, the GDCs must develop delivery requirements (i.e., the amount a supplier must deliver to PSE&G's gas system each day to satisfy the customer's weather normalized usage). PSE&G develops these requirements in its customer system, and does so by running a large, complex program on the tenth of each month for all gas customers being served by a supplier (following the conclusion of the rescission period), enabling time for analysis and review of the data prior to it being made available to suppliers to allow them sufficient time to review their account-specific delivery requirements and arrange for supply for the subsequent month. An acceleration of this schedule will impact the ability to do these tasks accurately (which could present supply issues that could impact other customers) and could impact the ability of the supplier to procure adequate (and optimal) supply in the market in advance of the 'delivery month.'

In conclusion, the LDCs submit these initial comments to underscore the importance of the Board continuing to utilize a careful and deliberative process before moving forward with changes in the area of its rules and regulations governing billing and energy choice. Such an approach will serve to avoid undue costs and system modifications in response to the polar

vortex, particularly modifications that have the potential to be re-thought by the Board and stakeholders within a relatively short period of time and would raise costs not only for customers interested in shopping, but also for those that do not. Given the impetus for this proceeding, the focus of this process should remain closely tied to enhancing customer education and strengthening TPS disclosures, consumer protections and obligations. However, if the Board concludes that modifications are needed to the systems and processes utilized by the LDCs to facilitate energy choice, the LDCs respectfully submit that Board Staff be allowed to facilitate a series of discussions with the LDCs and, if necessary and desired, other stakeholders, consistent with the Board's well-established energy competition working group processes so as to implement any modifications in an efficient, cost-effective manner.

The LDCs appreciate the opportunity to submit these comments.

Respectfully submitted,

By: *Alexander C. Stern*
Alexander C. Stern
PSEG Services Corporation
80 Park Plaza, T5G
Newark, NJ 07102
(973) 430-5754
Alexander.Stern@pseg.com