STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on May 17, 2006

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin
Patricia L. Acampora

CASE 98-M-0667 – In the Matter of Electronic Data Interchange

CASE 98-M-1343 – In the Matter of Retail Access Business Rules

ORDER MODIFYING ELECTRONIC DATA INTERCHANGE (EDI) STANDARDS AND UNIFORM BUSINESS PRACTICES

(Issued and Effective May 19, 2006)

BY THE COMMISSION:

BACKGROUND AND SUMMARY

Since the beginning of 2004, retail access market participants have been required to maintain Electronic Data Interchange (EDI) systems for the retail access transactions described in the Uniform Business Practices (UBP).[1] These systems facilitate the efficient exchange of retail access information between distribution utilities and ESCOs by establishing standard protocols for common business transactions like requests to enroll a customer for ESCO commodity service, the exchange of bill determinants for consolidated billing, and

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[1] Case 98-M-1343, In the Matter of Retail Access Business Rules, Order Adopting Revised Uniform Business Practices (issued November 21, 2003); all eligible ESCOs currently operating in New York were required to complete testing activities and commence using EDI no later than March 6, 2004.

the transfer of detailed payment information. New York has now developed and published seventeen EDI transaction set standards for statewide use.[2]

In this order, standards modifications requested by various utility parties are considered. In addition, Staff proposed to update several standards to support new retail access initiatives such as the recently adopted guidelines for ESCO Referral Programs, the widespread implementation of the Purchased Receivables payment processing method, and to address new information exchange needs associated with statutory changes in the Home Energy Fair Practices Act (HEFPA).

By this Order, modifications in Section 5 (Changes in Service Providers) of the UBP to recognize utility enrollments associated with ESCO Referral Programs are approved as an initial measure. Utilities who have already filed their ESCO Referral Program descriptions cited various UBP provisions requiring clarification or modification to minimize confusion regarding parties' obligations under ESCO Referral Program guidelines. At this juncture, the program would be better served by allowing market participants to focus on program implementation now and defer consideration of additional UBP changes until market participants have gained experience in operating the program.

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[2] New York's published standards adhere to EDI X12 4010 protocols issued by the Accredited Standards Committee of the American National Standards Institute.

The proposed standards changes, as modified herein, in the Enrollment,[3] the 814 Change (Account Maintenance),[4] the 820 Remittance Advice,[5] the 568 Account Receivables Advisement,[6] the 568 Payment Advisement,[7]and the 824 Application Advice[8] standards

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[3] Version 2.0 of this standard is comprised of the TS814 Enrollment Request & Response Implementation Guide, the TS814 Enrollment Data Dictionary and the Enrollment Business Processes Document. The Enrollment Business Processes Document is not modified as a result of this Order and remains as previously issued in Case 98-M-0667 on July 23, 2001.

[4] Version 1.4 of the 814 Change (Account Maintenance) Transaction Set Standard is comprised of the TS814 Change Implementation Guide, the TS814 Change Data Dictionary and the Change Business Process Document. The Change Business Process Document is not modified as a result of this Order and remains as previously issued in Case 98-M-0667 on November 7, 2001.

[5] Version 2.0 of the 820 Remittance Advice – Utility Consolidated Billing Transaction Set Standard is comprised of the TS820 Remittance Advice – Utility Consolidated Billing Implementation Guide and the Remittance Advice Business Processes Document.

[6] Version 2.0 of the 568 Account Receivables Advisement Transaction Set Standard consists of the 568 Accounts Receivables Advisement Implementation Guide and the Account Receivables Advisement Business Processes for Utility Rate Ready Consolidated Billing Model.

[7] The 568 Payment Advisement Transaction Set Standard consists of Version 1.0 of the 568 Payment Advisement Implementation Guide and Version 2.0 of the Payment Advisement Business Processes for Utility Rate Ready Consolidated Billing Model. The Payment Advisement Implementation Guide is not modified as a result of this Order and remains as previously issued in Case 98-M-0667 on February 24, 2003.

[8] Version 1.3 of the 824 Application Advice Transaction Set Standard consists the 824 Application Advice Implementation Guide. There are several Business Process Documents that are relevant to the transactions that may be rejected using an 824 Application Advice transaction but these documents are not modified as a result of this Order and remain as previously issued.

are approved. These modifications are necessary to enable utilities to enroll customers without receipt of an ESCO Request and remain compliant with X12 standards, to recognize the need to exchange additional data to support the retail access programs of specific utilities, to ensure that ESCOs have sufficient information on purchased receivables to maintain adequate financial records, to expand the scope of a remittance transaction to include data on financial adjustments between utilities and ESCOs unrelated to customer accounts, to enable ESCOs to transmit termination and deferred payment information on residential accounts, and to provide new and revised sample scenarios to clarify the content of specific EDI transactions.

Notices of the proposed modifications were published in the State Register on August 4, 2004 (814 Enrollment and 568 Payment Advisement), December 29, 2004 (814 Enrollment and 814 Change), February 2, 2005 (814 Enrollment and 820 Remittance), February 16, 2005 (UBP), and February 22, 2006 (814 Enrollment). Comments on the proposed changes in the Enrollment Standard[9] and/or the Uniform Business Practices were filed by Consolidated Edison of New York, Inc. and Orange and Rockland Utilities, Inc. (CE/O&R), New York State Electric & Gas Corporation and Rochester Electric and Gas Corporation (NYSEG/RGE), National Fuel Gas Distribution Corporation (NFG), Niagara Mohawk Power Corporation DBA National Grid, Central Hudson Gas and Electric Corporation (CH), the Small Customer Marketer Coalition and Mid-Atlantic Power Supply Association (SCMC/MAPSA), Intelligent Energy, and Fluent Energy.

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[9] Any modifications in the Enrollment Standard that are adopted will result in similar changes in the Account Maintenance (Change) standard. Because the Change transaction is used to modify any customer data contained in an Enrollment transaction, it must contain the same data segments present in the Enrollment standard.

National Grid, Keyspan Energy Delivery New York and Keyspan Energy Delivery Long Island (Keyspan) commented on the proposed 820 Remittance Advice. NFG filed a letter supporting its proposed changes in the 568 Account Receivables Advisement Standard while National Grid opposed some aspects of the changes. No comments were filed on the minor clarification in the Payment Advisement Business Processes Document.

CHANGES

ESCO Referral Programs

These programs offer customers an opportunity to participate in retail access at a discounted price for a pre-determined introductory period. Customers enroll through their utility by designating, or accepting assignment to, an ESCO. For the Referral Program the selection of an ESCO for commodity service is made through the utility; no Enrollment Request transaction will be transmitted by an ESCO. An Enrollment Response transaction, however, must still be transmitted by the utility to the ESCO to communicate the customer's account details.

To use existing EDI systems to support these programs, modifications in the Enrollment standard are necessary to enable utilities to continue to comply with established national protocols and still provide ESCOs with the information necessary on the Referral accounts enrolled with them and to enable ESCOs to differentiate between utility response transactions for standard enrollments initiated by ESCOs and ESCO Referral Program enrollments initiated by utilities. To achieve this objective, Staff proposed to emulate an EDI transaction structure that had been tested by O&R for its Switch & Save program, [10] to add a data element to identify Referral Program enrollments[11] and to modify the data segments that would have contained ESCO pricing information in a standard enrollment.[12] In addition, Central Hudson asked that a new segment (PER) be added to the standard to allow them to transmit the customer's telephone number in response transactions for ESCO Referral Program enrollments. Concurrent with proposed changes in the Enrollment standard, Staff proposed complementary changes in the UBP to recognize differences between the enrollment process for participants in ESCO Referral Programs and the standard enrollment process.

SCMC/MAPSA supports the proposed revisions to the UBP and EDI practices, and urges their expeditious adoption by the Commission. Alternatively, NYSEG/RGE believe that the Commission should take no action to modify the UBP to permit Power Switch type programs until it has conducted a full investigation to determine whether such programs adversely

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[10] The Beginning segment (BGN) in 814-type transactions contains data used to identify the type of transaction (request or response) and to track subsequent activity regarding the transaction (via a unique id). The 06 element in a Response transaction is a required element and would normally contain the transaction id from the ESCO Request transaction; providing a link between the Request transaction and its corresponding Response transaction. In the modified structure, the 06 element would contain the text 'MANUAL' in lieu of the id from the Request transaction.

[11] The Customer segment (N1) contains name, address and telephone number for the customer being enrolled and is a required segment in an Enrollment Accept Response transaction. An 06 element was added to this segment to enable utilities to identify the customer being enrolled as an ESCO Referral Program participant.

[12] The AMT*RJ (Commodity Price) and AMT*FW (E/M Fixed Charge) segments would be populated with zeros or dummy codes in a Utility initiated Enrollment Accept Response transaction instead of actual price information.

impact customers or provide just and reasonable rates. According to NYSEG/RGE in the event the Commission proceeds with this rulemaking, it should delay the effective date of the proposed rules pending completion of an investigation of the Power Switch program.

Intelligent Energy agrees that the 814 Enrollment Standards should be revised but, advises that the Commission should consider a more important threshold question first. In its view, an ESCO should not be precluded from participating in utility sponsored ESCO Referral Programs because they offer either ESCO consolidated or dual-billing rather than utility consolidated billing. The choice of bill option should have no bearing on ESCO participation in utility sponsored ESCO Referral Programs.

Fluent Energy generally supports the concept of the changes proposed because this structure allows for 814 Enrollment Response transactions that are not initiated by an Enrollment Request. It noted that ESCOs establishing New Delivery Service[13] on behalf of a customer must secure pertinent data required to set up an account on the ESCO system through website interface, as opposed to obtaining this information via EDI. According to Fluent Energy, this complicates data retrieval for the market participant; the process would be much more efficient if it was handled exclusively through EDI and if the EDI standards are being modified to support ESCO Referral Programs such that utilities can send a Response transaction without receipt of an Enrollment Request from an ESCO then this

[13] Where a customer has provided authorization, Section 5.I. of the UBP permits an ESCO to establish a new delivery account on behalf of the customer and enroll the customer with the distribution utility so that ESCO commodity service commences when distribution utility delivery service begins.

functionality should also be used to provide customer account details when New Delivery Service is established.

Where parties generally accepted or endorsed the modified structure for the response transaction, changes in the specific language proposed for various components of the 814 implementation guide were suggested. SCMC/MAPSA raised concerns about a Front Matter note in the guide because the text as proposed presumes that the ESCO will continue to provide service after the introductory incentive period. Since it is possible that the ESCO and customer may not come to an agreement concerning the terms of service for the post incentive period, SCMC/MAPSA suggested the note be revised to include "where the customer and the ESCO/Marketer have agreed upon terms and conditions of supply service that will be in effect after the incentive period" to recognize that continuation of ESCO commodity service is not a given. National Grid requested that notes pertaining to the use of the ESCO Rate Code segment in a response transaction also be updated in the same way that notes on the other pricing segments were revised because Grid uses the rate code segment rather than the pricing segments in its model.

In addition, National Grid suggested that the text of a new footnote in Section 5 of the UBP be revised to state "when the utility enrolls a customer with an ESCO, it is the responsibility of the ESCO to provide the customer with a sales agreement. A customer enrolled by the utility will continue to have the opportunity to cancel prior to the expiration of the initial incentive period set by the utility."

In support of its proposal to transmit customer's phone numbers for ESCO Referral Program enrollments, Central Hudson notes that the most efficient method for follow-up contact with customers enrolled in Referral Programs is by telephone. During the introductory period of the program customers must evaluate their post introductory commodity supply options with the ESCO to whom they were assigned by Central Hudson. Including the customers phone number in the EDI response transaction will make customer follow up easier and less costly for ESCOs and thereby reduce the possibility that customers would return to the utility following the introductory period because they were unable or did not understand the ESCOs offer for the post introductory period.

Con Edison/O&R comment that the PER segment used to communicate customer phone numbers should only be provided at the discretion of the utility and suggest that the proposed segment note be revised to reflect that business rule. In addition, the segment note should indicate that the telephone number will only be provided when available in the Utility's records. NYSEG/RGE concurs that this segment should only be provided at the discretion of the utility.

Discussion

The comments filed by NYSEG/RGE regarding the efficacy of ESCO Referral Programs are moot; as such programs are already being implemented at some utilities and there is a need to provide data exchange electronically to support such programs.

With respect to the issue raised by Intelligent Energy, the guidelines for ESCO Referral Programs generally and Central Hudson's proposed Referral Program specifically were the focus of extensive discussion and comment in Cases 05-M-0858[14] and 05-M-0332;[15] eligibility guidelines for ESCO participation in Referral Programs have already been adopted in the Order on ESCO Referral Programs. Intelligent Energy, in the context of this

[14] In the Matter of State-Wide Energy Services Company Referral Programs.

[15] In the Matter of Central Hudson Gas & Electric Corporation's Plan to Foster the Development of Retail Energy Markets.

proceeding, has not provided a basis for reopening that decision. Customers participating in these programs expect to receive a percentage reduction in commodity price in effect for its utility during an introductory period. At a minimum, Intelligent Energy, or any other party, must demonstrate that discounted commodity charges calculated by an ESCO would consistently equal the charges calculated by a specific utility, for the same introductory period.

Fluent's comment that EDI should be the primary vehicle for communicating 'pertinent' customer information between utilities and ESCOs is consistent with the principles established in the Uniform Business Practices. ESCO Referral Programs permit utility enrollment of customers with an ESCO, without receipt of an EDI Enrollment Request from the ESCO, and transmittal of notice and customer account details to the affected ESCO via an EDI Enrollment Accept Response transaction. Accordingly, ESCO Referral Programs require development of the capability to generate an Enrollment Accept Response transaction without a corresponding Request transaction, this functionality should also be used when New Delivery Service is being initiated by an ESCO. Some notes in the 814 Enrollment Standards have been revised accordingly.

The changes in Front Matter and pricing segment notes, proposed by SCMC/MAPSA and National Grid are adopted. The substance of National Grid's suggested language for Section 5 of the UBP is reflected in the updated text which now refers to 'ESCO Referral Programs' in lieu of the original proposed language. Comments regarding the required use of the PER segment (Customer Phone Number) are recognized in revised notes which now indicate that this data may, but is not required to, be provided by the utility when sending account details regarding ESCO Referral Program enrollments. This issue, however, may be revisited, pending an assessment of ESCO Referral Program experience. Central Hudson's point, that post enrollment follow up with customers is likely to be timely and more efficient via telephone, is well taken. Con Edison's suggestion that the note also be revised to indicate that telephone numbers will only be provided when available in the Utility's records is rejected. Central Hudson proposes to send the text "NOT AVAIL" in this segment if there is no phone number on record. Consistently sending the segment, populated with a number or text, is preferable to only sending it when a number is available.

Other Changes in Enrollment Processes or Standards

O&R requests that a third data element be added to the Utility Acct Number Segment to differentiate between metered and un-metered service on an electric account in their service territory. NFG suggests that three new segments be added to enable ESCOs in their service territory to designate accounts for whom NFG should assess a late fee when ESCO charges are past due and to transmit budget installment and balance amounts when the customer's bill option is Utility Rate Ready consolidated billing and the customer will be on budget billing for the ESCO charges. National Grid requests a change in the use of the Human Needs Indicator segment such that this segment would no longer be required in enrollment request transactions for residential customers. Staff proposes to add a new element to the Customer segment to differentiate residential from non-residential enrollments to support statutory changes in HEFPA. In addition, Staff recommends deleting segments, elements or references that are no longer relevant for retail access programs generally or for specific utilities, correcting data segment/element references[16] and adding more illustrative examples to the implementation guide.

National Grid opposes the change requested by O&R because this structure does not comply with the long established principle in New York that all electric meters (and/or un-metered electric service) on the customer’s account are enrolled with the supplier when an Enrollment Request transaction is accepted. Further, the Utility Account Number segment (REF*12) segment should be used for Account Level identification only and should not be used to further define the type of services on an account. National Grid proposes an alternative structure using a different segment (LIN) in the Enrollment standard because, in its view, that segment is the appropriate one for communicating the type of services on an account. Rather than adding an element to the Utility Account Number segment, National Grid suggests adding two elements to another segment (LIN) to communicate service level data. NYSEG/RGE also oppose the suggested modification, which they characterize "as a precedent setting event that could lead to further changes that would dilute and complicate standards for all parties."

Central Hudson opposes the NFG request to add new segments to communicate late fee and budget plan information. Central Hudson offers Rate Ready consolidated billing and purchases ESCO receivables without recourse. The proposed notes describing the use of each new segment indicate that these segments would be required in any service territory offering Rate Ready consolidated billing. Central Hudson, however, has

[16] For example, a data segment pertaining to fees assessed for consumption history information is deleted because the UBP no longer permits utilities to assess fees for consumption history provided via EDI. References to RG&Es Single Retailer Model are deleted because that model is no longer offered in that service territory; references to Niagara Mohawk have been updated to refer to National Grid.

no need for this information. Since it purchases ESCO receivables the conditions under which customers would be assessed finance charges on past due amounts would be determined by the utility and not the ESCO. Similarly, Central Hudson, and not the ESCO, would determine the monthly budget installment for both energy and delivery charges due from customers receiving consolidated bills. The ESCO receivable purchased by Central Hudson on budget billed accounts is the customer's actual charges and not the budget installment amount. Accordingly, the ESCO is unaffected by Central Hudson's determination of the proper installment amount.

National Grid also opposes adding segments to the Enrollment Standard to communicate pre-existing budget plan balances and/or a budget installment amount for ESCO commodity charges because an Enrollment Request transaction is not the proper transaction to communicate this information. According to National Grid, if these changes were adopted, a utility would need to store information in its system for an account that is not yet actively enrolled in retail access.[17] In its view the appropriate time for an ESCO to communicate budget plan information is after the customer is enrolled with the ESCO. It suggests that codes be added to the TS568 Accounts Receivables Advisement Transaction Standard to accommodate this information since that standard was developed, in part, to enable ESCOs to communicate beginning balance information.

NYSEG/RGE opposed the manner in which the N1 Customer segment would be modified[18] because adding new REF segments to communicate these details is preferable. The changes, as

[17] The UBP requires Enrollment Request transactions to be sent a minimum of 15 days in advance of the planned for effective date for the enrollment.

[18] In comments filed on March 18, 2005.

proposed, make use of the N1 segment in an 814 Enrollment Request mandatory, which is inconsistent with the use of the N1 segment in other 814 transaction sets. They recommend that the ESCO Referral Program and Customer Type data be transmitted in two new REF segments which could be sent as the situation warrants their use. The creation of a separate Customer Type REF segment can provide for possible differences in the utilities' definitions of residential and nonresidential customers. In separate comments in response to a subsequent notice,[19] the NYSEG/RGE reiterates that the proposal to add elements to the N1 Customer segment is "problematic and redundant" and that this proposal places additional unnecessary burdens on ESCOs to ensure that the correct service type indicator is sent and on the utility to change its CIS to include a new indicator. The Companies seek authorization for deferring any incremental costs associated with implementing this change should the Commission adopt the proposal.

Con Edison notes that the added 04 element in the N1 segment to specify customer type does not comport with EDI X12 requirements which state that "if either [element] N103 or N104 is present, then the other is required."

Discussion

The change in the Utility Account Number segment requested by Orange & Rockland is approved. National Grid's suggestion to use a LIN segment to communicate the necessary information is reasonable if this change affected only 814-type transactions. ESCOs in O&Rs service territory, however, have to be able to distinguish the un-metered portion of service on an electric account in all transaction types. The customer's

[19] Filed on April 10, 2006 in response to the notice soliciting comments on Central Hudson's request to add a PER segment to the Enrollment Standard.

utility account number is required in all EDI transactions[20] and it is possible to add a third element to the account number segment in any transaction and remain compliant with X12 protocols. Accordingly, a consistent approach in sending this information in transactions is preferable notwithstanding the fact that National Grid's suggested approach for 814-type transactions may be technically superior.

NYSEG/RGE and National Grid are also correct that this change undermines a fundamental principal established by the Collaborative early-on in the development of New York standards, i.e. an enrollment is an enrollment for all service on an account. The alternative, however, would be to require O&R to establish separate accounts for all un-metered electric service. That approach would result in more serious negative consequences to the utility and its market participant than appear warranted in this case. On balance, permitting O&R the flexibility to deviate from this principal is the preferable alternative.

Regarding the proposed changes in the N1 Customer segment opposed in principal by NYSEG/RGE and by Con Edison on syntactical grounds, Staff's proposal to add a required customer type indicator to Enrollment request transactions is withdrawn. Staff's proposal was in response to reported incidents of residential customers being enrolled with ESCOs who had not been deemed eligible to serve that class of customers.[21] Subsequent to this proposal being issued for comment in early 2005, no new residential customers have been enrolled with ESCOs who were not qualified to serve them and implementation of the Purchase of

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[20] The utility account number is used by the recipient of an EDI transaction to determine the validity of the transaction.

[21] ESCOs serving residential customers must file additional documents and demonstrate compliance with HEFPA prior to active participation in any service territory.

Receivables (POR) model in most service territories now minimizes the risk that a residential customer enrolled with an ESCO would not receive the protections provided for in HEFPA.[22]

Eliminating the customer type element from the N1 segment resolves the syntactical error identified by Con Edison but does not address NYSEG/RGE concerns regarding the presence of the ESCO Referral Program designator in Request transactions. At the time Staff proposed to add the designator to the N1 segment, at least one utility had proposed to refer interested customers to ESCOs rather than enrolling them directly. In that scenario, a Referral Program designator would have been necessary in a Request transaction to indicate to the utility recipient that discounted commodity pricing would be in effect for an introductory period for the customer being enrolled. The ESCO Referral Program guidelines recently issued require utilities to enroll customers in the program. Accordingly, it is no longer necessary to send the designator in ESCO Request transactions and the Enrollment Standard has been modified accordingly.

The new segments requested by NFG are approved but the segment/element notes have been revised to clarify that these segments are required only in Enrollment Request transactions sent to NFG. The retail access program in that service territory is unique because NFG supports three billing models (Utility Rate Ready consolidated billing, Single Retailer and dual billing) and many ESCOs operating in its service territory offer all three models. From experience, NFG has determined that using a new Enrollment Request to change the bill option for a customer already enrolled with an ESCO is more efficient and less error prone than sending an 814 Change transaction to

[22] In POR scenarios, the utility is providing most of the consumer protections required of ESCOs.

effect a bill option change. The structure for the new segments originally proposed by NFG did not comply with X12 standards; the coding structure of the new segments has been revised to be compliant.

National Grid's proposed change for the Human Needs Indicator segment is approved as well as Staff's recommendations regarding various housekeeping and technical corrections.

Remittance Processes

Staff's proposed changes in the Remittance Standards were designed to enable billing parties to provide more detailed information to ESCOs when the payment processing method is Purchased Receivables, to expand the scope of a remittance transaction to include any amounts due to, or from, the non-billing party and to update the business process document to reflect the most recent version of the UBP.

To accommodate POR, two new data elements were added to 820 Implementation Guide to communicate the amount billed the customer for ESCO charges[23] and the discount amount deducted from the invoice amount in calculating the amount of the customer receivable to be purchased by the utility. Adding these elements will enable the non-billing party to reconcile the total cash transferred by the billing party with the individual adjustments posted to each customer's receivable account maintained by the ESCO.

New elements and codes were also added to enable the billing party to adjust customer payment or purchased receivables amounts pertaining to specific customer accounts with other debits or credits pertaining to administrative

[23] This amount should equal the total amount billed to the ESCO's customer previously communicated in an 810 Invoice transaction either sent to the billing party (Bill Ready consolidated billing) or received from the billing party (Rate Ready consolidated billing.

charges (or adjustments) due to, or from, the non-billing party such as billing services fees, gas balancing charges, etc. These changes would enable utility billing parties, at their discretion, to use a remittance transaction to communicate information on all financial transactions between the billing and non-billing parties. Utilities taking advantage of this structure could assign and define a set of unique master account numbers for use in describing adjustments sent in a remittance that pertain to the ESCO versus those that pertain to specific customer accounts.

Last, the Remittance Advice Business Processes Document for Utility Consolidated Billing Models was updated to reflect the added functionality for POR, its use in communicating billing party administrative adjustments and to reflect the current text of the UBP.[24]

In its comments, National Grid supported all changes proposed by Staff but requested that additional codes be added to the 07 element (Adjustment Reason Code) to support their model for Purchase of Receivables without Recourse. Keyspan viewed Staff's proposed changes in the Business Process document as a fundamental change to the consolidated billing processes, as described in the 810 Invoice Transaction Set Standard, regarding the handling of customer payments received by the non-billing party. It maintains that no changes were necessary in these business processes, as [its] existing process is simple, efficient, and equitable. It claims that these proposed changes would be inequitable to billing parties, as well as complex, costly and time-consuming to implement. According to the company its current procedure is to require ESCOs (the non-

[24] Version 1.0 of the Remittance Business Processes Document, issued in July 2002, was based on the UBP issued on April 15, 1999.

billing party) to notify and forward to Keyspan immediately any customer payments they receive for proper allocation and posting to the customer's account with the ESCO and utility. Keyspan maintains that there is nothing wrong or broken in the current procedures, and, accordingly, that no change is warranted. Specifically, it objects to the proposed text of version 2.0 of the Business Process Document at pages 13 through 15. These procedures call for the non-billing party to apply the entire customer payment to its receivable account for the customer and then to notify the billing party via an EDI transaction.[25] Upon receipt of this [EDI] notice, the billing party is expected to adjust the customers' receivables balance with the ESCO and determine the allocation of the payment between the billing and non-billing parties in accordance with UBP allocation procedures.

Keyspan first maintains that no EDI transaction is needed where customers send payments directly to the non-billing party because the volume of these transactions is de minimis. According to Keyspan, the SAPA notice on the proposed 820 Remittance Standard failed to note the perceived deficiencies in the 'current' process and does not indicate why the non-billing party should be permitted to apply all customer payments it receives directly to its charges, while the billing party must prorate all customer payments it receives.

Discussion

National Grid's request to add additional codes to provide for more detailed explanation of administrative adjustments is not accepted. The flexibility that National Grid

[25] For Rate Ready Consolidated Billing notice is provided via a 568 Accounts Receivable Advisement transaction; for Bill Ready Consolidated Billing the 810 Invoice transaction initiated by the ESCO would contain a PAM segment to indicate the amount of the payment received from the customer.

believes is necessary to support its implementation of POR is implicit in the structure proposed by Staff. In lieu of supporting an extended list of adjustment reason codes, each utility is permitted to define its own set of master account numbers to provide the level of detail desired by National Grid. Keyspan's proposal is rejected. The procedures for handling customer payments received by a non-billing party in version 2.0 of the Business Process Document are virtually the same processes contained in version 1.0. The EDI Collaborative Working Group, of which Keyspan is a member, settled on the process as a best practice because it was more efficient, less error prone and provided greater assurance of timely posting of customer's payments. The process recommended by the Collaborative minimizes errors by avoiding the use of manual processing routines and ensures that payments are only handled once and not multiple times by different parties. The alternative process endorsed by Keyspan - to forward all customer checks to the utility – increases the risk that payments could be lost in transit, mislaid within the utility, or not posted promptly due to personnel changes or inadequate supervision.

In summary, Keyspan does not provide a basis for deviating from the process for handling non-billing party receipt of a customer payment originally recommended by the Collaborative, and retained in version 2.0 of the Business Process Document. This process remains relevant and appears superior to the alternative proposed by Keyspan.

Data on Customer Receivables

National Grid requested that the Payment Advisement Business Processes Document be revised to clarify how National Grid would communicate certain receivables information to ESCOs when the customer was on a budget plan for both delivery and commodity charges. Similar to other business process documents, the Payment Advisement document was also updated to reflect the most recent version of the UBP.

NFG suggests revisions in the 568 Receivables Advisement Implementation Guide such that a 568 A/R transaction could be used by ESCOs to communicate amounts associated with termination notices issued, or deferred payment agreements (DPA) negotiated by, an ESCO arising from implementation of Chapter 686 (revisions to HEFPA) when the customers bill option is utility consolidated billing and the payment processing method is Pay-As-You-Get-Paid.[26] NFG also requested that segments be added to the 568 A/R Implementation Guide to communicate Gas Pool Id and a Utility Assigned Account Number for the ESCO/Marketer.

National Grid does not oppose adding segments for Gas Pool Id and ESCO/Marketer Account number as long as the use of these segments in a 568 A/R transaction is conditional, i.e. may be sent at the discretion of the utility billing party. Regarding the need to communicate termination and DPA amounts, Grid recognizes that a 568 A/R transaction may be the appropriate vehicle for communicating this type of information but does not support this change without an opportunity for discussion amongst EDI Collaborative members to identify all of the appropriate codes necessary for parties to comply with revised HEFPA requirements.

The original revised transaction structure proposed by NFG proved to be unworkable when tested against X12 protocols. Accordingly, an alternative structure that complies with X12

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[26] If these changes are approved, it would require corresponding changes in the Accounts Receivable Advisement Business Process Document to recognize that a 568 transaction may be used to send termination or deferred payment agreement information.

requirements and retains the original functionality sought by NFG will be implemented instead.

Discussion

No comments were received on the proposed changes in the Payment Advisement Business Process document and it is approved as proposed. The 568 Accounts Receivable Advisement Implementation Guide has been revised to add a Gas Pool Id and ESCO/Marketer Account Number segments to be sent at the discretion of the utility.[27] The modified structure necessary to communicate termination and DPA information in a 568 A/R transaction, as revised by Staff, is also approved. The EDI Collaborative is encouraged to discuss and subsequently recommend an alternative approach for communicating HEFPA related information but there is no need to delay implementation of the revised 568 A/R standard pending such a discussion.

CONCLUSION

The standards documents listed in Attachment A reflect the approved modifications as discussed herein and will be made available on the Commission's web site coincident with the issuance of this Order. These documents also incorporate certain non-controversial technical or housekeeping changes identified in the course of Staff's review. Supplemental interactive EDI testing (Phase II) for the Enrollment and Remittance Advice will be required for utilities and supplemental interactive Phase III testing may be requested at the discretion of affected ESCOs.

[27] At the time these changes were proposed, the protocols contained in the 824 Application Advice Transaction Set Standard, issued on July 11, 2002, contained inconsistencies with the directives contained in Version 1.0 of this 568 standard, issued on February 24, 2003. These inconsistencies have been addressed through minor modifications in the 824 Application Advice Standard.

The Commission orders:

1. The standards documents listed in Attachment A to this order, in the manner described in the body of this memorandum, are approved.

2. Utilities that have implemented Purchased Receivables, and their chosen ESCO test partners, are directed, within 90 days, to provide Staff with an email affirmation that interactive Phase II EDI testing has been successfully completed for Version 2.0 of the 820 Remittance Standard. Utilities that have not implemented Purchased Receivables, and their chosen ESCO test partners, are directed, at least 30 days prior to implementing Purchased Receivables, to provide Staff with an email affirmation that interactive Phase II EDI testing has been successfully completed for Version 2.0 of the 820 Remittance Standard.

3. Utilities that have elected to use the master account structure in remittance transactions for adjustments owed to, or from, an ESCO, and their chosen ESCO test partners, are directed, within 90 days, to provide Staff with an email affirmation that interactive Phase II EDI testing has successfully been completed for Version 2.0 of the 820 Remittance Standard. Utilities that have not elected to use the master account structure in remittance transactions for adjustments owed to, or from, an ESCO, and their chosen ESCO test partners, are directed, at least 30 days prior to electing to use the master account structure in remittance transactions for adjustments owed to, or from, an ESCO, to provide Staff with an email affirmation that interactive Phase II EDI testing has successfully been completed for Version 2.0 of the 820 Remittance Standard.

4. Utilities that have implemented an ESCO Referral Program, and their chosen ESCO test partners, are directed,

within 90 days, to provide Staff with an email affirmation that interactive Phase II EDI testing has successfully been completed for Version 2.0 of the 814 Enrollment Request and Response Standard. Utilities that have not implemented an ESCO Referral Program, and their chosen ESCO test partners, are directed, at least 30 days prior to implementing Purchased Receivables, to provide Staff with an email affirmation that interactive Phase II EDI testing has successfully been completed for Version 2.0 of the 814 Enrollment Request and Response Standard.

5. Revisions to Section 5 of the Uniform Business Practices, as discussed herein, are approved.

6. These proceedings are continued.

By the Commission,

(SIGNED) JACLYN A. BRILLING
Secretary

The following documents will be available electronically from the Commission's web site at http://www.dps.state.ny.us/98m0667.htm.

Supplement	Description
SUPPLEMENT A	• TS814 Enrollment Request & Response Implementation Guide, Version 2.0
SUPPLEMENT B	• TS814 Enrollment Data Dictionary, Version 2.0
SUPPLEMENT C	• TS820 Remittance Advice – Utility Consolidated Billing Models, Implementation Guide, Version 2.0
SUPPLEMENT D	• Remittance Advice Business Processes – Utility Consolidated Billing, Version 2.0
SUPPLEMENT E	• TS814 Change (Account Maintenance) Implementation Guide, Version 1.4
SUPPLEMENT F	• TS814 Change (Account Maintenance) Data Dictionary, Version 1.4
SUPPLEMENT G	• Payment Advisement Business Processes – Utility Rate Ready Purchase Receivables With Recourse Consolidated Billing Model, Version 2.0
SUPPLEMENT H	• TS568 Account Receivables Advisement Implementation Guide, Version 2.0
SUPPLEMENT I	• Account Receivables Advisement Business Processes – Utility Rate Ready Consolidated Billing Model, Version 2.0
SUPPLEMENT J	• TS824 Application Advice Implementation Guide, Version 1.3

ATTACHMENT B

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

UNIFORM BUSINESS PRACTICES
CASE 98-M-1343

May 2006

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DEFINITIONS

As used in the Uniform Business Practices (UBP), the following terms shall have the following meanings:

Assignment – Transfer by one ESCO to another ESCO of its rights and responsibilities relating to provision of electric and/or gas supply under a sales agreement.

Bill ready – A consolidated billing practice that requires each non-billing party, after receiving customers' usage data, to calculate its charges and send via EDI charges, billing information, and bill messages to the billing party in a form that allows the transfer of the information to the bill in a format the billing party selects.

Billing cycle – The period for which a customer is billed for usage of electricity or natural gas.

Billing services agreement (BSA) – An agreement between the distribution utility and the ESCO stating the billing practices and procedures and the rights and responsibilities of billing and non-billing parties relating to issuance of consolidated bills to customers.

Budget billing – A billing plan that provides for level or uniform amounts due each billing period over a set number of period, typically 12 months, and determined by dividing projected annual charges by the number of periods. Installment amounts may be adjusted during the period and may include reconciliations at the end of the budget period to account for differences between actual charges and installment amounts.

Business day – Monday through Friday, except for public holidays.

Consolidated billing – A billing option that provides customers with a single bill combining charges from more than one service provider and issued by a distribution utility providing delivery service (utility consolidated bill) or by a commodity supplier (ESCO consolidated bill).

Customer inquiry – A question or request for information from a customer relating to a rate, term, or condition of service provided by an ESCO, distribution utility or other service provider.

Cramming – The addition of unauthorized charges to a customer's bill.

Deferred payment agreement (DPA) – A fair and equitable payment plan agreed upon by a customer and utility and/or a customer and an ESCO that allows a customer to pay an overdue amount in installments. A DPA is based upon the customer's financial circumstances and ability to pay the overdue amount while making payment on current charges.

Demand – The amount of electricity or natural gas that is or could be immediately needed by a customer at any given point in time referred to as customer load. For consolidated billing, the term is used in the context of "billing period demand" for customer bills.

Electric – The amount of electricity, measured in kilowatts (kW), that a customer uses at a point in time, the customer's usage averaged over a period, or capacity of facilities reserved for the customer for stand-by or other service.

Natural Gas – The amount of gas measured in cubic feet or therms that a customer uses or may use over a period, or capacity of facilities reserved for the customer for stand-by or other service.

Direct customer – An entity that purchases and schedules delivery of electricity or natural gas for its own consumption and not for resale. A customer with a minimum peak connected load of 1 MW at a single service point qualifies for direct purchase and scheduling of electricity provided the customer complies with ISO requirements. A customer with annual use of a minimum of 3,500 dekatherms of natural gas at a single service point qualifies for direct purchase and scheduling of natural gas.

Distribution utility – A gas or electric corporation owning, operating or managing electric or gas facilities for the purpose of distributing gas or electricity to end users.

Distribution utility customer account number – A number used by a distribution utility to identify the account of a utility customer.

Distribution utility tariff – A schedule of rates, terms and conditions of services provided by a distribution utility.

Drop – A transaction that closes a customer's account with a provider. This term is used when: (1) a customer's enrollment is pending and the customer rescinds the enrollment; (2) a customer enrolled with an ESCO returns to distribution utility service or enrolls with another ESCO; or (3) the ESCO discontinues service to a customer.

Dual billing – A billing option that provides for separate calculation of charges and presentation of bills to the customer by the distribution utility and ESCO.

Electronic data interchange (EDI) – The computer-to-computer exchange of routine information in a standard format using established data processing protocols. EDI transactions are used in retail access programs to switch customers from one supplier to another or to exchange customers' history, usage or billing data between a distribution utility or MDSP and an ESCO. Transaction set standards, processing protocols and test plans are authorized in orders issued by the Public Service Commission in Case 98-M-0667, In the Matter of Electronic Data Interchange and available on the Department of Public Service (DPS) Web site at: www.dps.state.ny.us/98m0667.htm.

Energy broker – A non-utility entity that performs energy management or procurement functions on behalf of direct customers or ESCOs but does not make retail energy sales to customers.

Energy services company (ESCO) – An entity eligible to sell electricity and/or natural gas to end-use customers using the transmission or distribution system of a utility. ESCOs may perform other retail service functions. Sometimes, other terms are used for such entities, such as, ESCO/Marketer to describe a supplier of both commodities, ESCO to describe a supplier of electricity and marketer to describe a supplier of natural gas. For simplicity, the term ESCO is used in the UBP to refer to suppliers of natural gas and/or electricity.

Enroll/Enrollment – The process used to switch a customer from a distribution utility to an ESCO or from one ESCO to another.

Enrollment date – The effective date for commencement of electric or natural gas service from an ESCO or distribution utility.

Guarantor – An entity that agrees to pay another's debt or perform another's duty, liability or obligation.

Independent System Operator (ISO) – An independent management organization, authorized by the Federal Energy Regulatory Commission, operating the bulk electric transmission system.

Interval data – Actual energy usage for a specific time interval for a specific period recorded by a meter or other measurement device.

Load profile – Actual or estimated customer energy usage by interval over a period representing usage for a customer or average usage for a customer class.

Lockbox – A billing payment receipt method agreed upon by a distribution utility and an ESCO, involving use of a third party financial institution to receive and disburse customer payments.

Marketer – The term marketer typically refers to the supplier of natural gas. In the UBP, the term ESCO is used to refer to a supplier of either or both electricity and natural gas.

Meter – A device for determination of the units of electric or natural gas service supplied to consumers.

Meter Data Service Provider (MDSP) – An entity that provides meter data services, consisting of meter readings, meter data translations, and customer association, validation, editing and estimation.

Meter Service Provider (MSP) – An entity that installs, maintains, tests and removes meters, or other measurement devices and related equipment.

Multi-retailer model – A model for retail access that involves provision of electric or natural gas supply and of delivery service, provided separately to end use customers by two or more entities.

New delivery customer – A customer initiating delivery service by a distribution utility.

Nomination – A request for delivery of a physical quantity of natural gas or for its delivery at a specific point under a purchase, sale, or transportation agreement.

Pay-as-you-get-paid method – A payment processing method offered by a billing party presenting consolidated bills, whereby the billing party forwards payment to the non-billing party after receiving payment from the customer.

Pending enrollment – A stage in processing an enrollment that commences with validation of an enrollment transaction request and ends on the enrollment date that the new supplier is expected to deliver energy.

Purchased accounts receivable – A debt owed to an ESCO by a customer for receipt of supplies of gas or electricity and transferred to a distribution utility in exchange for consideration.

> With recourse – Purchase of accounts receivable with recourse by a distribution utility means that the ESCO remains liable if its customers fail to make payments. A distribution utility that purchases accounts receivable with recourse sends payments to an ESCO at predetermined intervals for amounts billed that are not in dispute and may offset subsequent purchase payments against or obtain reimbursement from an ESCO of any unpaid amounts.
>
> Without recourse – Purchase of accounts receivable without recourse by a distribution utility means that the ESCO is not liable if its customers fail to make payments. A distribution utility that purchases accounts receivable without recourse sends payments to an ESCO at predetermined intervals for amounts billed that are not in dispute and has no right to seek reimbursement from an ESCO of any unpaid amounts.

Rate ready – A consolidated billing practice that requires each non-billing party to furnish in advance of the billing cycle, rates, rate codes or prices (fixed and/or variable), tax rates, billing information, and bill messages to the billing party. The billing party, after receipt of usage data from the MDSP, uses the information on record to calculate the non-billing party's charges.

Sales agreement – An agreement between a customer and an ESCO that contains the terms and conditions governing the supply of electricity and/or natural gas provided by an ESCO. The agreement may be a written contract signed by the customer or a statement supporting a customer's verifiable verbal or electronic authorization to enter into an agreement with the ESCO for the services specified.

Single retailer model – A model for retail access that involves provision of electric and/or natural gas service to end users by an ESCO that purchases delivery service from the distribution utility and resells it along with electricity and/or natural gas to end users.

Slamming – Enrollment of a customer by an ESCO without authorization.

Special meter reading – An actual meter reading performed, upon request, on a date that is different than the regularly scheduled meter reading date.

Special needs customer – A customer who has a certified medical emergency condition, who is elderly, blind or physically challenged, or who may suffer serious impairment to health or safety as a result of service termination during cold weather periods and, thus, is eligible for special procedures before termination of service under the Home Energy Fair Practices Act (HEFPA) (Public Service Law §32(3).-

Switch – Transfer of a customer from one ESCO to another, from a distribution utility to an ESCO, or from an ESCO to a distribution utility.

Switching cycle – For electric service, the period between the date of the last meter reading and the next regularly scheduled meter reading. For gas customers, the period between the date of the last meter reading and the next regularly scheduled meter reading or the first day of the month and the first day of the following month.

ELIGIBILITY REQUIREMENTS

A. Applicability

This Section sets forth the process that an applicant is required to follow for a Department of Public Service (DPS) finding of eligibility to sell natural gas or electricity as an ESCO, that an ESCO is required to follow to maintain eligibility, and that a distribution utility is required to follow for discontinuance of an ESCO's or Direct Customer's participation in a distribution utility's retail access program.

B. Application Requirements

1. Applicants seeking eligibility to sell natural gas and/or electricity as ESCOs are required to submit to the DPS an application package containing the following information and attachments:

   a. A completed Retail Access Eligibility Form, available on the DPS web site: www.dps.state.ny.us.
   b. A sample standard Sales Agreement for each customer class that includes the following information written in clear, plain language:

      1. Terms and conditions applicable to the business relationship between the ESCO and the customer, including provisions governing the process for rescinding or terminating an agreement by the ESCO or the customer;
      2. Procedures for resolving disputes between the ESCO and a customer;
      3. Consumer protections provided by the ESCO to the customer;
      4. Method for applying payments and consequences of non-payment;
      5. Any charges and fees, services, options or products offered by the ESCO;
      6. DPS contact information, including the DPS retail market complaint line at 1-800-342-3377;
      7. ESCO contact information, including a local or toll-free number from the customer's service location, and procedures used for after-hours contacts and emergency contacts, including transfer of emergency calls directly to a distribution utility and/or an answering machine message that includes an emergency number for direct contact with the distribution utility.
      8. A statement that the ESCO shall provide at least 15 calendar days notice prior to any cancellation of service to a customer; and
      9. If a condition of service, a statement that the ESCO reserves the right to assign the contract to another ESCO.

c. Sample forms of the notices sent upon assignment of sales agreements, discontinuance of service, or transfer of customers to other providers.
d. A sample ESCO bill used when dual billing is in effect and, if applicable, a sample ESCO consolidated bill, with terms stated in clear, plain language;
e. Procedures used to obtain customer authorization for ESCO access to a customers' historic usage or credit information;
f. Sample copies of informational and promotional materials that the ESCO uses for mass marketing purposes;
g. Proof of registration with the New York State Department of State;
h. Internal procedures for prevention of slamming and cramming;
i. Name, postal and e-mail addresses, and telephone and fax numbers for the applicant's main office;
j. Names and addresses of any entities that hold ownership interests of 10% or more in the ESCO, including a contact name for corporate entities and partnerships; and,
k. Detailed explanation of any criminal or regulatory sanctions imposed during the previous 36 months against any senior officers of the ESCO or any entities holding ownership interests of 10% or more in the ESCO.

2. Applicants shall submit to the DPS Test Moderator designated EDI transactions required for syntactical verification in the Phase I testing program. The DPS shall maintain a list of ESCOs that successfully complete Phase I test requirements by transaction type.
3. An ESCO that knowingly makes false statements in its application package is subject to denial or revocation of eligibility
4. If the application package contains information that is a trade secret or sensitive for security reasons, the applicant may request the DPS to withhold disclosure of the information, pursuant to the Freedom of Information Law (Public Officers Law Article 6) and Public Service Commission regulations (16 NYCRR §6-1.3).

C. DPS Review Process

The DPS shall review the application package and conduct EDI Phase I testing as required for each applicant. An ESCO shall notify the DPS of any major changes in the information submitted in the Form and/or application package that occurs during the DPS review process. The DPS shall advise the applicant, in writing, if the applicant submitted the required information and EDI testing is successfully completed.

D. Maintaining ESCO Eligibility Status

1. An ESCO shall submit by January 31 each year:

a. a statement that the information and attachments in its Retail Access Eligibility Form and application package are current; or
b. a description of revisions to the Form and application package and a copy of the revised portions or, at the ESCO's option, a copy of the revised portions identifying the revisions by highlighting or other means.

2. An ESCO shall submit at other times during the year:

a. a description of any major change in the Form and/or application package and a copy of the revised portions or, at the ESCO's option, a copy of the revised portions identifying the revisions by highlighting or other means. For purposes of Subdivision D of this Section, the term, "major change," means a revision in the terms and conditions applicable to the business relationship between the ESCO and its customers, including provisions governing the process for termination of sales agreements.
b. changes in the ESCO's business and customer service information displayed on the DPS Web site.

3. The DPS shall provide written notice to an ESCO of any deficiency in the maintenance of its eligibility status, including failure of an ESCO to disclose any major change. The ESCO shall have ten business days after receipt of written notice to provide a response or to file a request for an extension of time.

4. The DPS may, at any time, determine that an ESCO is no longer eligible to sell electricity and/or natural gas to retail customers for reasons, including, but not limited to:

a. false or misleading information in the application package;
b. failure to adhere to the policies and procedures described in its Sales Agreement;
c. failure to comply with required customer protections;
d. failure to comply with applicable ISO requirements, reporting requirements, or DPS oversight requirements;
e. failure to provide notice to the DPS of any material changes in the information contained in the Form or application package;
f. failure to comply with the UBP terms and conditions, including discontinuance requirements;
g. failure to comply with EDI transaction set standards and processing protocols and/or use properly functioning EDI systems; or,
h. any of the reasons stated in Subdivision F of this Section.

5. An ESCO's eligibility to serve customers is valid: unless revoked by the DPS, after notice and opportunity for response; the ESCO abandons its eligibility status; or, a court of competent jurisdiction issues a final order

authorizing discontinuance of the ESCO’s participation in the distribution utility’s retail access program.

6. The DPS shall notify distribution utilities, and the ISO, if applicable, of any determination to revoke an ESCO's eligibility to sell natural gas and/or electricity. The distribution utility shall notify the ESCO’s customers, in accordance with paragraph 3 of Subdivision F of this Section, of any DPS revocation of an ESCO's eligibility.

E. Distribution Utility Requirements

1. After receipt of the DPS compliance letter, the ESCO shall notify the distribution utility, and ISO, if applicable, of its eligibility status and intent to complete the process to commence operation in the distribution utility's service area, including execution of any operating agreement that is required.
2. Upon satisfaction of the distribution utility's and, if applicable, the ISO's requirements, and successful completion of EDI testing conducted by the distribution utility, the ESCO may enter into an operating agreement, if any is required, with the distribution utility to commence operations in its service territory.

F. Discontinuance of an ESCO’s and Direct Customer's Participation in a Retail Access Program

1. In accordance with the procedures established in this Subdivision, a distribution utility may discontinue an ESCO’s or Direct Customer’s participation in its retail access program for the following reasons:

   a. failure to act that is likely to cause, or has caused, a significant risk or condition that compromises the safety, system security, or operational reliability of the distribution utility 's system, and the ESCO or Direct Customer failed to eliminate immediately the risk or condition upon verified receipt of a non-EDI notice;
   b. failure to provide natural gas (provided zero quantity) to the distribution utility’s city gate;
   c. failure to pay an invoice upon the due date;
   d. failure to provide for delivery of at least 95% of the amount of natural gas directed by a distribution utility for delivery or at least 80% of the daily metered usage of the ESCO's customers or a Direct Customer’s specified load or lower percentages included in a balancing program established in a distribution utility's tariff and/or any operating agreement;
   e. failure to maintain a creditworthiness standard or provide required security;

f. failure to comply with the terms and conditions of a distribution utility's tariff, operating agreement, or Gas Transportation Operating Procedures (GTOP) Manual;
g. discontinuance of an ESCO's or Direct Customer's participation in a distribution utility's retail access program by the ISO; or,
h. DPS determination that an ESCO is not eligible to sell natural gas or electricity to retail customers.

2. To initiate the discontinuance process, a distribution utility shall send a non-EDI discontinuance notice by overnight mail and verified receipt, to the ESCO or Direct Customer and DPS. The notice shall contain the following information:

a. the reason, cure period, if any, and effective date for the discontinuance;
b. a statement that the distribution utility shall notify the ESCO's customers of the discontinuance if the ESCO fails to correct the deficiency described in the notice within the cure period, unless the DPS directs the distribution utility to stop the discontinuance process;
c. the distribution utility may suspend the ESCO's right to enroll customers until correction of the deficiency; and
d. correction of the deficiency within the cure period, or a DPS directive, will end the discontinuance process.

3. The distribution utility shall send notices to the ESCO's customers informing them of the discontinuance and providing the following information:

a. The discontinuance shall or did occur on one of the following dates selected by the distribution utility: the scheduled meter reading date, the first day of the month, or another date, if readings are estimated, or on the date of a special meter reading;
b. Customers have the option to select another ESCO or return to full utility service or, if a program authorizing random assignment is in effect, to enroll with a designated ESCO through that program;
c. Names and telephone numbers of ESCOs offering service to retail customers in the distribution utility's service territory;
d. Any ESCO selected by a customer may file an enrollment request on the customer's behalf with the distribution utility, and the distribution utility shall charge no fee for changing the customer's provider to the new ESCO; and,
e. During any interim between discontinuance of a customer's current ESCO and enrollment with a new ESCO, the distribution utility shall provide service under its applicable tariff, unless the distribution utility notified the customer that it is terminating its delivery services to the customer on or before the discontinuance date.

4. The distribution utility shall submit a sample copy of its discontinuance notice to the DPS for review and approval prior to distribution to customers.
5. The distribution utility may request permission from the DPS to expedite the discontinuance process, upon a showing that it is necessary for safe and adequate service or in the public interest. Any expeditious discontinuance process shall include the ESCO or Direct Customer, and the distribution utility.
6. Upon any discontinuance, an ESCO or Direct Customer shall remain responsible for payment or reimbursement of any and all sums owed under the distribution utility tariffs, any tariffs on file with the FERC and service agreements relating thereto, or any agreements between the ESCO and the distribution utility.
7. The notice requirements and time limits for a distribution utility to discontinue an ESCO's or Direct Customer's participation in a distribution utility's retail access program (discontinue participation) are:

    a. Upon a distribution utility determination that an ESCO's or Direct Customer's action, or failure to act, is likely to cause, or has caused, a significant risk or condition that compromises the safety, system security, or operational reliability of the distribution utility's system and that the ESCO or Direct Customer failed to eliminate immediately the risk or condition upon verified receipt of a non-EDI notice, the distribution utility may discontinue participation as soon as practicable.
    b. Upon a distribution utility determination that an ESCO or Direct Customer responsible for the delivery of natural gas failed, except under force majeure conditions, to deliver natural gas (provided zero quantity) to the distribution utility's service territory for its load, the distribution utility may discontinue participation no sooner than two business days after receipt by the ESCO or Direct Customer of a discontinuance notice.
    c. Upon a distribution utility determination that an ESCO or Direct Customer failed to pay an invoice on the due date, as specified in the distribution utility's tariff, and the ESCO's or Direct Customer's required security or credit limit is insufficient to cover the unpaid amount, with interest, the distribution utility may discontinue participation no sooner than ten business days (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer pays the amount due on or before the expiration of the cure period, the distribution utility shall stop the process to discontinue participation.
    d. Upon a distribution utility determination that an ESCO or Direct Customer responsible for the nomination and delivery of natural gas failed, except in force majeure conditions, to nominate and/or deliver sufficient natural gas to the distribution utility's service territory to satisfy at least 95% of the amount of natural gas directed by a distribution utility for delivery or at least 80% of the daily metered usage

of the ESCO's customers or the Direct Customer's specified load or lower percentages included in a balancing program established in a distribution utility's tariffs and/or any operating agreement on any three days during any month, the distribution utility may initiate a discontinuance process no sooner than five business days (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer provides adequate assurances and a description of any necessary process changes that ensure adequate nominations and deliveries on or before the expiration of the cure period, the distribution utility shall stop the discontinuance process. Upon a determination to continue the discontinuance process because the assurances and proposed process changes are inadequate, the distribution utility shall notify the ESCO or Direct Customer that it will discontinue participation no later than 15 business days from the expiration of the cure period. The distribution utility shall notify the ESCO's customers that the distribution utility will discontinue participation on or before the expiration of 15 business days from the end of the cure period. If a failure to provide sufficient natural gas for any 3 days during a calendar month occurred during the past 12 months and the distribution utility sent a related discontinuance notice for each occurrence, it may discontinue participation no sooner than two business days after receipt by an ESCO or Direct Customer of a discontinuance notice.

e. Upon a distribution utility determination that an ESCO or Direct Customer failed to provide or maintain a creditworthiness standard or required security, the distribution utility may initiate a discontinuance process no sooner than five business days (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer satisfies the creditworthiness standard or provides the required security on or before the expiration of the cure period, the distribution utility shall stop the discontinuance process. Upon a determination to continue with the discontinuance process because the ESCO or Direct Customer failed to comply with the creditworthiness standard or provide adequate security, the distribution utility shall notify the ESCO or Direct Customer that it will discontinue participation no later than 15 business days from the expiration of the cure period. The distribution utility shall notify the ESCO's customers that the it will discontinue participation on or before 15 days from the expiration of the cure period. If a failure to comply with the creditworthiness standard or provide adequate security occurred twice during the past 12 months and the distribution utility sent a related discontinuance notice for each failure, it may discontinue participation no sooner than two business days after receipt by an ESCO or Direct Customer of a discontinuance notice.

f. Upon a distribution utility determination that an ESCO or Direct Customer failed, except in force majeure conditions, to comply with any other applicable provision of the distribution utility's tariff, operating agreement, or GTOP manual, the distribution utility may initiate a discontinuance process no sooner than ten business days (cure period) after receipt by the ESCO or Direct Customer of a discontinuance notice. If the ESCO or Direct Customer provides adequate assurances and a description of any necessary process changes that ensure compliance on or before the expiration of the cure period, the distribution utility shall stop the discontinuance process. Upon a determination to continue the discontinuance process because the assurances and proposed process changes are inadequate, the distribution utility shall notify the ESCO or Direct Customer that it will discontinue participation no later than 15 business days from the expiration of the cure period. The distribution utility shall notify the ESCO's customers that it will discontinue participation on or before the expiration of 15 business days after the end of the cure period.

CREDITWORTHINESS

A. Applicability

This Section establishes creditworthiness standards that apply to ESCOs and Direct Customers. An ESCO's and Direct Customer's participation in a distribution utility's retail access program is contingent upon satisfaction of creditworthiness requirements and provision of any security.

B. ESCOs

1. An ESCO shall satisfy a distribution utility's creditworthiness requirements if:

    a. The ESCO, or a guarantor, maintains a minimum rating from one of the rating agencies and no rating below the minimum from one of the other two rating agencies; for the purposes of this Section, minimum rating shall mean "BBB" from Standard & Poor's, "Baa2" from Moody's Investor Service, or "BBB" from Fitch Ratings (minimum rating); or,

    b. The ESCO enters into a billing arrangement with the distribution utility, whereby the distribution utility bills customers on behalf of the ESCO and retains the funds it collects to offset any balancing and billing service charges provided that the distribution utility has a priority security interest with a first right of access to the funds. The ESCO shall submit an affidavit from a senior officer attesting to such utility interest and right.

2. If an ESCO, or a guarantor, is not rated by Standard & Poor's, Moody's Investor Service or Fitch Ratings, it shall satisfy a distribution utility's creditworthiness requirements if the ESCO, or a guarantor:

    a. Maintains a minimum "1A2" rating from Dun & Bradstreet (Dun and Bradstreet minimum rating) and the ESCO maintains 24 months good payment history with the distribution utility; and,

    b. Provides any security required by the distribution utility, calculated in accordance with Subdivision D, after deduction of the following unsecured credit allowances:

Rating	Unsecured Credit Allowance
5A1 or 5A2	30% of an ESCO's tangible net worth, up to 5% of the distribution utility's average monthly revenues for the applicable service
4A1 or 4A2	30% of an ESCO's tangible net worth, up to 5% of the distribution utility's average monthly revenues for the applicable service
3A1 or 3A2	30% of an ESCO's tangible net worth, up to 5% of the distribution utility's average monthly revenues for the applicable service
2A1 or 2A2	50% of an ESCO's tangible net worth, up to $500,000
1A1 or 1A2	50% of an ESCO's tangible net worth, up to $375,000

An ESCO shall provide information, upon request of the distribution utility, to enable the distribution utility to verify the ESCO's equity. The distribution utility may request reasonable information to obtain the verification and shall safeguard it as confidential information and protect it from public disclosure. The distribution utility may deny the unsecured credit allowance to any ESCO that fails to provide the requested information.

3. A distribution utility may require an ESCO to provide and maintain security in the full amount of the distribution utility's credit risk, calculated in accordance with Subdivision D, if:

   a. The ESCO, or a guarantor, is not rated;
   b. The ESCO, or a guarantor, with a minimum rating is placed on credit watch with negative implications or is rated below the minimum rating;
   c. The ESCO, or a guarantor, is rated below the Dun & Bradstreet minimum rating or the ESCO fails to maintain 24 months good payment history with the distribution utility; or,
   d. An ESCO issuing consolidated bills fails to render timely bills to customers or to make timely payments to the distribution utility.

4. If a distribution utility's credit risk, associated with an ESCO's participation in its retail access program, exceeds 5% of the distribution utility's average monthly revenues for the applicable service, the distribution utility may require the ESCO, in addition to maintaining a minimum rating, to provide and maintain security in the amount of such excess credit risk.

C. Direct Customers

A Direct Customer shall satisfy a distribution utility's creditworthiness requirements if:

1. Its account is current and remained current for the past 12 months; and,
2. If its debt is rated, it maintains a minimum rating of its long-term unsecured debt securities from one of the rating agencies and no rating below the minimum rating from one of the other two rating agencies.

D. Calculation of Credit Risk and Security

The distribution utility shall calculate its credit risk and establish its security requirements as follows:

1. Delivery Service Risk

   a. For an ESCO that issues a consolidated bill under a multi-retailer model, a distribution utility may require security in an amount no greater than 45 days of peak usage of the ESCO's customers' projected energy requirements during the next 12 months, priced at the distribution utility's applicable delivery service rate and including relevant customer charges.
   b. For an ESCO that bills customers for delivery and commodity services under a single retailer model, a distribution utility may require security in an amount no greater than 60 days of peak usage of the ESCO's customers' projected energy requirements during the next 12 months, priced at the distribution utility's applicable delivery service rate and including relevant customer charges.
   c. Upon an ESCO request, the distribution utility shall establish separate security requirements for summer (April 1 - October 31) and winter (November 1 - March 31) and may retain winter security until the end of two months (April and May) after the end of the winter period.

2. Natural Gas Imbalance Risk

   a. The distribution utility may require an ESCO or Direct Customer to provide security in an amount no greater than the ESCO's customers' or a Direct Customer's projected maximum daily quantity times peak forecasted NYMEX price for the next 12 months and for upstream capacity to the city gate times 10 days.
   b. Upon the request of an ESCO or Direct Customer, the distribution utility shall establish separate security requirements for summer (April 1 - October 31) and winter (November 1 - March 31) and may retain winter security until the end of two months (April and May) after the end of the winter period.

3. Major Change in Risk

   a. A major change shall mean a change in credit risk of more than the greater of 10% or $200,000.
   b. The ESCO or Direct Customer shall promptly notify the distribution utility and DPS of any major change in credit and or rating risk.
   c. The distribution utility may require an ESCO or a Direct Customer, within five days, to provide additional amounts of security if a major change occurs to increase its credit risk, as follows:

      1. If Standard & Poors, Moody's Investor Service, or Fitch Ratings downgrades an ESCO's, or its guarantor's, rating or a Direct Customer's debt below the minimum rating or Dun & Bradstreet downgrades an ESCO's, or its guarantor's, rating or a Direct Customer's debt; or,
      2. An increase occurs in customer usage or in energy prices and such increase is sustained for at least 30 days.

   d. In the event that a major change occurs to decrease a distribution utility's credit and/or rating risk, results in compliance by an ESCO or Direct Customer with creditworthiness requirements, and elimination of the basis for holding some or all of the security, the distribution utility shall return or release the excess amount of the ESCO's or Direct Customer's security with accumulated interest, if applicable. The distribution utility shall return such amount within five business days after receipt of an ESCO or Direct Customer notice informing the distribution utility of the occurrence of such major change.

E. Security Instruments

1. The following financial arrangements are acceptable methods of providing security:

   a. Deposit or prepayment, which shall accumulate interest at the applicable rate per annum approved by the Public Service Commission for "Other Customer Capital";
   b. Standby irrevocable letter of credit or surety bond issued by a bank, insurance company or other financial institution with at least an "A" bond rating;
   c. Security interest in collateral; or,
   d. Guarantee by another party or entity with a credit rating of at least "BBB" by S&P, "Baa2" by Moody's, or "BBB" by Fitch; or
   e. Other means of providing or establishing adequate security

2. A distribution utility may refuse to accept any of these methods for just cause provided that its policy is applied in a nondiscriminatory manner to any ESCO.
3. If the credit rating of a bank, insurance company, or other financial institution that issues a letter of credit or surety bond to an ESCO or Direct Customer falls below an "A" rating, the distribution utility shall allow a minimum of five business days for an ESCO or Direct Customer to obtain a substitute letter of credit or surety bond from an "A" rated bank, insurance company, or other financial institution.

F. Lockbox

If the distribution utility and ESCO arrange for a lockbox, security requirements are reduced by 50% provided that the arrangement includes the following:

1. Agreement on allocation of funds and the first right of the distribution utility, in the event of an ESCO's financial difficulty, to obtain funds in the lockbox deposited to the credit of the ESCO;
2. Establishment of rules for managing the lockbox;
3. Agreement on conditions for terminating the lockbox for non-compliance with the rules or for failure to receive customer payments on a timely basis; and,
4. Responsibility of an ESCO for any costs associated with implementing and administering the lockbox.

G. Calling on Security

1. If an ESCO or Direct Customer fails to pay the distribution utility, in accordance with UPB Section 7, Invoices, the distribution utility may draw from security provided that the distribution utility notifies the ESCO or Direct Customer five business days' in advance of the withdrawal and the ESCO or Direct Customer fails to make full payment before the expiration of the five business days.
2. If an ESCO receives a discontinuance notice or elects to discontinue service to customers and owes amounts to the distribution utility, the distribution utility may draw from the security provided by the ESCO without prior notice.
3. If an ESCO files a petition or an involuntary petition is filed against an ESCO under the laws pertaining to bankruptcy, the distribution utility may draw from security, to the extent permitted by applicable law.

H. Application by Distribution Utilities

1. Within ten business days after receipt of a complete ESCO application, a distribution utility shall complete its evaluation of initial creditworthiness, state the rationale for its determination, and provide the calculation supporting the credit limit and any resulting security requirement.

2. A distribution utility shall perform, at least annually, an evaluation, at no charge, of an ESCO’s satisfaction of creditworthiness standards and security requirements.
3. A distribution utility shall perform evaluations of creditworthiness, security requirements, and security calculations in a non-discriminatory and reasonable manner.
4. Pending resolution of any dispute, the ESCO or Direct Customer shall provide requested security within the time required in this Section.
5. A distribution utility may reduce or eliminate any security requirement provided that it reduces or eliminates the requirement in a nondiscriminatory manner for any ESCO or Direct Customer. The distribution utility may request reasonable information to evaluate credit risk. If an ESCO or Direct Customer fails to provide the requested information, a distribution utility may deny the ESCO or Direct Customer an opportunity to provide lower or no security.

CUSTOMER INFORMATION

A. Applicability

This Section establishes practices for release of customer information by distribution utilities or MDSPs to ESCOs and Direct Customers and identifies the content of information sets. The distribution utility or MDSP and an ESCO shall use EDI standards, to the extent developed, for transmittal of customer information and may transmit data, in addition to the minimum information required, via EDI or by means of an alternative system.

B. Customer Authorization Process. The distribution utility or MDSP shall provide information about a specific customer requested by an ESCO authorized by the customer to receive the information.

1. An ESCO shall obtain customer authorization to request information, in accordance with the procedures in UBP Section 5, Changes in Service Providers, Attachments 1, 2, and 3. An ESCO shall inform its customers of the types of information to be obtained, to whom it will be given, how it will be used, and how long the authorizations will be valid. The authorization is valid for no longer than six months unless the sales agreement provides for a longer time.
2. A distribution utility and a MDSP shall assume that an ESCO obtained proper customer authorization if the ESCO is eligible to provide service and submits a valid information request.
3. An ESCO shall retain, for a minimum of two years, verifiable proof of authorization for each customer. Verification records shall be provided by an ESCO, upon request of the DPS staff, within five calendar days after a request is made. Locations for storage of the records shall be at the discretion of the ESCOs.
4. Upon request of a customer, a distribution utility and/or MDSP shall block access by ESCOs to information about the customer.
5. An ESCO and its agent shall comply with statutory and regulatory requirements pertaining to applicable state and federal do-no-call registries.

C. Customer Information Provided to ESCOs[1]

1. Release of Information. A distribution utility and a MDSP shall use the following practices for transferring customer information to an ESCO:

   a. A distribution utility shall provide the information in the Billing Determinant Information Set upon acceptance of an ESCO's enrollment request and the information in the Customer Contact Information Set and the Credit Information Set, upon ESCO request.
   b. The distribution utility or MDSP shall respond within two business days to valid requests for information as established in EDI transaction standards and within five business days to requests for data and information for which an EDI transaction standard is not available. The distribution utility or MDSP shall provide the reason for rejection of any valid information request.

2. Customer Contact Information Set. The distribution utility or MDSP, to the extent it possesses the information, shall provide, upon an ESCO request, consumption history for an electric account and consumption history and/or[2] a gas profile for a gas account.

   a. Consumption history[3] for an electric or gas account shall include:

      1. Customer's service address;
      2. Electric or gas account indicator;
      3. Sales tax district used by the distribution utility;
      4. Rate service class and subclass or rider by account and by meter, where applicable;
      5. Electric load profile reference category or code, if not based on service class;
      6. Usage type (e.g., kWh or therm), reporting period, and type of consumption (actual, estimated, or billed);

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1 Upon enrollment of a customer, an ESCO shall receive usage data and any subsequent changes, corrections and adjustments to previously supplied data or estimated consumption for a period, at the same time that the distribution utility validates them for use. An ESCO issuing consolidated bills is entitled to receive billing information, in accordance with UBP Section 9, Billing and Payment Processing.

2 If a distribution utility or MDSP offer a gas profile and consumption history, an ESCO may choose either option. A distribution utility or MDSP shall make available, upon request, class average load profiles for electric customers.

3 A distribution utility or MDSP, in addition to EDI transmittal, may provide Web based access to customer history information.

7. 12 months, or the life of the account, whichever is less, of customer data via EDI and, upon separate request, an additional 12 months, or the life of the account, whichever is less, of customer data via EDI or an alternative system at the discretion of the distribution utility or MDSP, and, where applicable, demand information;[4] if the customer has more than one meter associated with an account, the distribution utility or MDSP shall provide the applicable information, if available, for each meter; and
8. Electronic interval data in summary form (billing determinants aggregated in the rating periods under a distribution utility's tariffs) via EDI, and if requested in detail, via an acceptable alternative electronic format.

b. A gas profile for a gas account shall include:

1. customer’s service address;
2. gas account indicator;
3. sales tax district used by the distribution utility for billing;
4. rate service class and subclass or rider, by account and by meter, where applicable;
5. date of gas profile; and,
6. weather normalization forecast of the customer’s gas consumption for the most recent 12 months or life of the account, whichever is less, and the factors used to develop the forecast.

3. Billing Determinant Information Set. Upon acceptance of an ESCO enrollment request, a distribution utility shall provide the following billing information for an electric or gas account, as applicable[5]:

a. customer’s service address, and billing address, if different;
b. electric and/or gas account indicator;
c. meter reading date or cycle and reporting period;
d. billing date or cycle and billing period;
e. meter number, if available;
f. distribution utility rate class and subclass, by meter;
g. description of usage measurement type and reporting period;
h. customer’s load profile group, for electric accounts only;
i. life support equipment indicator;
j. gas pool indicator, for gas accounts only;

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4 A distribution utility may provide data for a standard 24 months or life of the account, whichever is less, as part of its customer contract information set.

5 As specified in the EDI standard for an enrollment request and response, the distribution utility may transmit additional data elements, based upon the request, the responding distribution utility, and the commodity type.

k. gas capacity/assignment obligation code;
l. customer's location based marginal pricing zone, for electric accounts only; and,
m. budget billing indicator.[6]

4. Credit Information Set. The distribution utility or MDSP shall provide credit information for the most recent 24 months or life of the account, whichever is less, upon receipt of an ESCO's electronic or written affirmation that the customer provided authorization for release of the information to the ESCO. Credit information shall include number of times a late payment charge was assessed and incidents of service disconnection.

D. Direct Customer Information

A Direct Customer shall receive usage data and any subsequent changes, corrections and adjustments to previously supplied data, and estimated consumption for a period, at the same time that the distribution utility validates them for use. The distribution utility or MDSP shall make available, upon request, to an electric Direct Customer, a class load profile for its service class.

E. Charges for Customer Information

No distribution utility or MDSP shall impose charges upon ESCOs or Direct Customers for provision of the information described in this Section. The distribution utility may impose an incremental cost based fee, authorized in tariffs for an ESCO's request for customer data for a period in excess of 24 months or for detailed interval data per account for any length of time.

F. Unauthorized Information Release

An ESCO, its employees, agents, and designees, are prohibited from selling, disclosing or providing any customer information obtained from a distribution utility or MDSP, in accordance with this Section, to others, including their affiliates, unless such sale, disclosure or provision is required to facilitate or maintain service to the customer or is specifically authorized by the customer or required by legal authority. If such authorization is requested from the customer, the ESCO shall, prior to authorization, describe to the customer the information it intends to release and the recipient of the information.

[6] This indicator is limited to 12 month levelized payment plans and does not include other payment plans.

CHANGES IN SERVICE PROVIDERS

A. Applicability

This Section establishes practices for receiving, processing, and fulfilling requests for changing a customer's electricity or natural gas provider and for obtaining a customer's authorization for the change. A change in a provider includes transfer from: (1) one ESCO to another; (2) an ESCO to a distribution utility; and (3) a distribution utility to an ESCO. This Section also establishes practices for: an ESCO's drop of a customer or a customer's drop of an ESCO, retention of an ESCO after a customer's relocation within a distribution utility's service area, assignment of a customer, and initiation or discontinuance of procurement of electricity or natural gas supplies by a Direct Customer. This Section does not establish practices for obtaining other energy-related services or changing billing options.

The process of changing a service provider is comprised of two steps. For enrollment with an ESCO, the first step is obtaining customer agreement to accept electric or natural gas service, or both, according to the terms and conditions of an offer. A sales agreement establishes the terms and conditions of the customer's business arrangement with the ESCO. The second step is enrollment and the distribution utility's modification of its records to list the customer's transfer to a provider on a specific date. This transaction is primarily between the ESCO and the distribution utility.

B. Customer Agreement Procedures

An ESCO, or its agent, may solicit and enter into a sales agreement with a customer subject to the following requirements.

1. The ESCO shall obtain a customer agreement to initiate service and enroll a customer and customer authorization to release information to the ESCO by means of one of the following methods.

   a. telephone agreement and authorization, preceded or followed within three business days by provision of a sales agreement, in accordance with requirements in Attachment 1 – Telephonic Agreement and Authorization;
   b. electronic agreement and authorization, attached to an electronic version of the sales agreement, in accordance with requirements in Attachment 2 – Electronic Agreement and Authorization; or
   c. written agreement bearing a customer's signature on a sales agreement (original or fax copy of a signed document), in accordance with requirements in Attachment 3 – Written Agreement and Authorization.
2. The ESCO shall provide residential customers the right to cancel a sales agreement within three business days after its receipt (cancellation period).

C. Provision of List of ESCOs to Customers

Distribution utilities shall offer to provide a customer who requests initiation of delivery service with an up-to-date list of ESCOs and provide the list at any time, upon request of any customer.

D. Customer Enrollment Procedures

1. An ESCO shall transmit an enrollment request[7] to a distribution utility no later than 15 calendar days prior to the effective date of the enrollment. The enrollment request shall contain as a minimum, the information required for processing set forth in Attachment 4 - Enrollment Request.
2. The distribution utility shall process enrollment requests in the order received.
3. The distribution utility shall accept only one valid enrollment request[8] for each commodity per customer during a switching cycle. If the distribution utility receives multiple enrollment requests for the same customer during a switching cycle, it shall accept the first valid enrollment request and reject subsequent requests.
4. An ESCO shall submit an enrollment request after it provides the sales agreement to the customer and, for residential customers, after the expiration of the cancellation period[9].
5. After receipt of an enrollment request, the distribution utility shall, within one business day, acknowledge its receipt, and, within two business days, provide a response indicating rejection and the reason, or acceptance and the effective date for the change of provider.
6. Upon acceptance of an enrollment request, the distribution utility shall send a notice to any incumbent ESCO that the customer's service with that ESCO will be terminated on the effective date of the new enrollment. In the event that the distribution utility receives notice no later than three business days before the effective date that a pending enrollment is cancelled, the

[7] When a utility customer selects, or agrees to be randomly assigned to, an ESCO through participation in an ESCO Referral Program, an enrollment request from an ESCO is not sent. The utility will enroll the participating customer, notify the ESCO of the customer selection or designation, and provide customer account details via a response transaction.

[8] Criteria for determining the validity of an EDI transaction are described in the EDI processing protocols adopted in Case 98-M-0667, Electronic Data Interchange.

[9] When the utility enrolls the customer with an ESCO, in conjunction with the customer's participation in an ESCO Referral Program, it is the responsibility of the ESCO to provide the customer with a sales agreement. A customer enrolled by the utility will continue to have the opportunity to cancel prior to the expiration of the initial incentive period established by the utility.

distribution utility shall transmit a request to reinstate service to any incumbent ESCO, unless the ESCO previously terminated service to the customer or the customer requests a return to full utility service.

7. With the exception of a new installation use of an interim estimate of consumption or a special meter reading,[10] a change of providers is effective: for an electric customer, on the next regularly scheduled meter reading date; and, for a gas customer, on the next regularly scheduled meter reading date or the first day of the month, in accordance with provisions set forth in the distribution utility's tariff.[11] The distribution utility shall set the effective date, which shall be no sooner than 15 calendar days after receipt of an enrollment request. Service to new delivery customers is effective after the installation is complete and, if necessary, inspected.
8. An off-cycle change of an electric service provider is allowed no later than 15 calendar days before the date requested for the change if a new ESCO or a customer arranges for a special meter reading or agrees to accept an interim date for estimating consumption. The ESCO or customer is required to pay the cost for any special meter reading, in accordance with provisions set forth in the distribution utility's tariff. A change based upon an interim estimate of consumption or a special meter reading is effective on the date of the interim estimate or special meter reading. Off-cycle changes of gas service providers are allowed if the incumbent and new ESCO agree on an effective date no later than 15 calendar days following the request.

E. Customer Notification

1. The distribution utility shall send no later than one calendar day after acceptance of an enrollment request a verification letter to the customer notifying the customer of the acceptance. The notice shall inform the customer that if the enrollment is unauthorized or the customer decides to cancel it, the customer is required immediately to so notify the distribution utility and pending ESCO.
2. Upon receipt of such cancellation, the distribution utility shall cancel the pending enrollment and reinstate the customer with the incumbent ESCO, if any, or the distribution utility, provided that no less than three business days remain before the planned effective date. If less than three business days remain, the change to the new provider shall occur and remain effective for one billing cycle. The customer shall return to full utility service at the end of

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[10] If meters are read bimonthly and bills are issued monthly using estimated usage, the effective date for the interim months is the date usage estimated for billing purposes.

[11] If meters are not read within two business days of the scheduled meter reading day, the distribution utility or MDSP shall estimate usage as of the scheduled meter reading day. The effective date for a change of provider is that date, except where changes of natural gas suppliers are scheduled for the first of the month.

the next switching cycle, unless the customer is enrolled by another ESCO at least 15 days before the beginning of the next switching cycle.

3. If a customer notifies the pending ESCO of such cancellation, the pending ESCO shall send a customer's drop request to the distribution utility at least three business days prior to the effective date for the pending enrollment.

F. Rejection of Enrollment Requests

The distribution utility may reject an enrollment request for any of the following reasons:

1. Inability to validate the transaction;
2. Missing or inaccurate data in the enrollment request;
3. ESCO’s ineligibility to provide service in the specified territory;
4. No active or pending delivery service;
5. A pending valid prior enrollment request; or
6. The account is coded as ineligible for switching.

G. Customer Relocations Within a Service Territory

1. A customer requesting relocation of service within a distribution utility’s service territory and continuation of its ESCO service arranges for continuation at the new location of delivery service by contacting the distribution utility and of commodity service by contacting the ESCO.[12] Each provider contacted by the customer shall remind the customer of the need to contact the other provider to initiate the change in service or arrange for a conference call with the other provider and customer, and within two days, notify the other provider that a customer requested relocation of service.
2. The distribution utility’s representative shall inform the customer, or the customer’s agent, and the ESCO of the effective dates, contingent upon the customer’s approval, for discontinuance of service at one location and commencement of service at the new location. The ESCO shall confirm to the distribution utility that it shall continue service to the customer at the new location.
3. In the event that the ESCO is unable, or does not wish, to continue service to the customer at the new location, the distribution utility shall provide full utility service to the customer.

H. Customers Returning to Full Utility Service

1. A customer arranges for a return to full utility service by contacting the distribution utility and ESCO. Each provider contacted by the customer shall,

[12] In the Single Retailer Model, the customer contacts only its ESCO. The ESCO notifies the distribution utility of the customer’s new service location and mailing address, if applicable. Direct customers contact only the distribution utility.

within two days, notify the other provider that a customer requested a change of service and remind the customer of the need to contact the other provider to initiate the change in service providers, or arrange for a conference call with the other provider and customer. An ESCO, acting as a customer's agent, may contact the distribution utility to initiate a return to full utility service from ESCO service. If a change to full utility service results in restrictions on the customer's right to choose another supplier or application of a rate that is different than the one applicable to other full service customers, the distribution utility shall provide advance notice to the customer.

2. A Direct Customer that intends to change from procuring its own supplies to full utility service shall notify the distribution utility.
3. No ESCO shall transfer 5,000 or more customers during a billing cycle to full utility service, unless it provides no less than 60 calendar days notice to the distribution utility and DPS. The transfers shall occur on the customers' regularly scheduled meter reading dates, unless the distribution utility and ESCO agree to a different schedule.
4. The following process sets forth the steps for an ESCO's return of a customer to full utility service .

    a. An ESCO may discontinue service to a customer and return the customer to full utility service provided that the ESCO notifies the customer and the distribution utility no later than 15 calendar days before the effective date of the drop. The ESCO's right to discontinue service to any customer is subject to any limitations contained in its sales agreement.
    b. An ESCO's notice to retail customers shall provide the following information:

        1. Effective date of the discontinuance, established by the distribution utility, unless the ESCO arranged for an off-cycle date;
        2. Statement that the customer has the options to select another ESCO, receive full utility service from the distribution utility, or, if available in the distribution utility's service area and the customer is eligible, accept random assignment by the distribution utility to an ESCO; and,
        3. Statement that customer shall receive full utility service until the customer selects a new ESCO and the change in providers is effective, unless the distribution utility notified the customer that it will terminate its delivery service on or before the discontinuance date.

    c. The ESCO shall provide a sample form of the notice it plans to send to its customers when it transfers 5,000 or more customers to the DPS for review no later than five calendar days before mailing the notice to customers.

I. New Delivery Customers

1. A customer may initiate distribution utility delivery service and subsequently enter into a customer agreement with an ESCO for commodity supply, or arrange for both services at the same time.
2. A customer may initiate commodity supply through programs offered by some distribution utilities that involve assignments of customers to ESCOs that have agreed to accept additional customers.
3. A customer may authorize an ESCO to act as the customer’s agent (ESCO agent) in establishing distribution utility service. The ESCO agent shall retain, and produce upon request, documentation that the customer authorized the ESCO to act as the customer’s agent.
4. An ESCO acting as a customer’s agent shall establish a new delivery account on behalf of the customer and enroll the customer with the distribution utility so that ESCO commodity service commences when distribution utility delivery service begins. The ESCO shall retain, and produce upon request, documentation that the customer authorized the ESCO to act as the customer’s agent. An ESCO that is a customer’s agent is authorized to submit the customer’s application for new delivery service, in compliance with requirements for such applications stated in the law, rules and distribution utility tariffs. An ESCO shall provide the customer’s name, service address and, if different, mailing address, telephone number, customer’s requested service date for initiation of delivery service, and information about any special need customers, including any need for life support equipment. An ESCO shall refer a customer directly to a distribution utility for arrangement of distribution related matters, such as contribution-in-aid of construction and construction of facilities necessary to provide delivery service and settling of arrears and posting security.
5. Upon a customer's application for service, the distribution utility shall provide an ESCO with the effective date for initiation of delivery service and any other customer information provided to an ESCO in an acceptance of an enrollment request. The distribution utility may notify the customer of the acceptance.

J. Multiple Assignments of Sales Agreements

1. An ESCO may assign all or a portion of its sales agreements to other ESCOs provided that the assigned sales agreements clearly authorize such assignments or the ESCO provides notice to its customers prior to the assignments and an opportunity for each customer to choose another ESCO or return to full utility service. An ESCO shall provide a written notice no later than 30 calendar days prior to the assignment or transfer date to each customer and distribution utility. The notice to the distribution utility shall include a copy of the assignment document, with financial information redacted, executed by the officers of the involved ESCOs, and a copy of the notice sent to the customer, or, if a form notice, a copy of the form and a list of recipients.

2. The assignment documents shall specify the party responsible for payment or reimbursement of any and all sums owed under any distribution utility tariff or Federal Energy Regulatory Commission tariff and any service agreements relating thereto, and under any agreements between ESCOs and distribution utilities and between ESCOs and their customers.
3. An ESCO's notices to customers shall provide the following information:

    a. effective date of the assignment;
    b. the name, mailing and e-mail addresses, and telephone number of the assigned ESCO; and,
    c. any changes in the prices, terms and conditions of service, to the extent permitted by the sales agreement.

4. The ESCO shall provide sample forms and any major modifications of such notices to the DPS for review no later than five calendar days before mailing them to customers.
5. The distribution utility shall, within two business days after receipt of an assignment request, acknowledge and initiate processing of the request and send written notice of the request to the ESCO's assigned customer.

K. Unauthorized Customer Transfers

1. A change of a customer to another energy provider without the customer's authorization, commonly known as slamming, is not permitted. The distribution utility shall report slamming allegations to the DPS.
2. An ESCO that engages in slamming shall refund to a customer the difference between charges imposed by the slamming ESCO that exceed the amount the customer would have paid its incumbent provider and pay any reasonable costs incurred by the distribution utility to change the customer's provider from the ESCO that engaged in slamming to another provider.
3. ESCOs shall retain for two years documentation of a customer's authorization to change providers. Such documentation shall comply with the requirements described in Attachments 1, 2 or 3.

L. Lists of ESCO Customers; Budget Billing: Charges and Fees

1. A distribution utility, upon an ESCO's request, shall provide at no charge, once each calendar quarter, a list of the ESCO's customers at the time of the request and, monthly, the number of accounts enrolled with an ESCO and the ESCO's sales (kWh and/or dekatherms). ESCOs may obtain such customer lists at other times for cost-based fees set forth in distribution utility tariffs.
2. A distribution utility shall adjust its bills rendered under a budget billing plan on the effective date for changing a provider and include the adjustments in the customer's next bill.
3. Upon enrollment of a distribution utility customer with an ESCO or return of an ESCO customer to full utility service, a distribution utility shall impose no

restrictions on the number or frequency of changes of gas or electricity providers, except as provided in this paragraph. The distribution utility shall accept only one valid enrollment request for each commodity per customer during a switching cycle. If multiple requests are received for the same customer during a switching cycle, the distribution utility shall accept the first valid enrollment request and reject subsequent enrollment requests.

4. A distribution utility shall impose no charge for changing a customer's gas or electricity provider.
5. A distribution utility may establish a $20 fee in its tariffs for a special meter reading.

Attachment 1

**Telephonic Agreement
and Authorization Requirements**

A. To enter into a telephonic agreement with a customer to initiate service and begin enrollment or to obtain customer authorization for release of information, an ESCO, or its agent, shall audio record the telephone conversation with the potential customer. The conversation shall contain the following information, as applicable, to substantiate the customer's agreement or authorization:

1. A statement that the conversation is recorded and that oral acceptance of the ESCO's offer is an agreement to initiate service and begin enrollment;
2. A description of the prices, terms and conditions of the ESCO's offer;
3. A statement from the customer accepting such terms and conditions;
4. A description of the types of information that the ESCO needs to obtain from a distribution utility or MDSP and the purposes of its use, a request that the customer provide authorization for release of this information, and effective duration of the authorization;
5. A statement from the customer providing such authorization;
6. A statement that a customer will receive a written copy of the sales agreement by mail, e-mail or fax and that a residential customer may rescind the agreement within three business days after its receipt; a statement that a customer may rescind the authorization for release of information at any time; provision of a local or toll-free telephone number or e-mail address to the customer for these purposes; upon cancellation of the agreement, the ESCO shall provide a cancellation number to the customer during the telephone call or in response to an e-mail message;
7. A statement from the customer verifying the date and time of the telephone call; and
8. A statement from the customer providing or verifying the customer's name, postal and, any e-mail address (if the customer chooses to provide it), distribution utility customer account number, and any additional information needed to verify the customer's identity.

B. The ESCO, or its agent, shall provide a copy of any sales agreement to the customer by mail, e-mail or fax within three business days after the telephone agreement and authorization occurs. The sales agreement shall set forth the customer's rights and responsibilities and describe the offer in detail, including the specific prices, terms, and conditions of ESCO service.

C. The ESCO, or its agent, shall conduct the telephone conversation in the same language used in marketing or sales materials presented to the customer, and communicate clearly and in plain language.

Attachment 1 (cont.)

D. An ESCO shall retain telephonic agreement and/or authorization records for no less than two years from the effective date of the agreement and/or authorization. In the event of any dispute involving a telephonic agreement or authorization, the ESCO shall make available the audio recording of the customer's agreement and/or authorization within five business days after a request from the DPS.

Attachment 2

Electronic Agreement and Authorization Requirements

A. To enter into an electronic agreement with a customer to initiate service and begin enrollment or to obtain customer authorization for release of information, an ESCO, or its agent, shall electronically record communications with the potential customer. An ESCO shall provide the following electronic information, as applicable, to substantiate the customer's agreement and/or authorization:

1. A statement that electronic acceptance of a sales agreement is an agreement to initiate service and begin enrollment;
2. The sales agreement containing the prices, terms and conditions applicable to the customer; an identification number and date to allow the customer to verify the specific sales agreement to which the customer assents;
3. A requirement that the customer accept or not accept the sales agreement by clicking the appropriate box, displayed as part of the terms and conditions; after the customer clicks the appropriate box to accept the sales agreement, the system shall display a conspicuous notice that the ESCO accepts the customer;
4. Use of an electronic process that prompts a customer to print or save the sales agreement and provides an option for the customer to request a hard copy of the sales agreement; an ESCO shall send the hard copy by mail within three business days after a customer's request;
5. A description of the types of information that the ESCO needs to obtain from a distribution utility or MDSP and the purposes of its use, a request that the customer provide authorization for release of this information, and effective duration of the authorization;
6. A requirement that the customer agree or not agree to provide such authorization by clicking the appropriate box, displayed as part of the terms and conditions;
7. A statement that a residential customer may rescind the agreement and authorization within three business days after electronic acceptance of the sales agreement; a statement that a customer may rescind the authorization for release of information at any time; provision of a local or toll-free telephone number, and/or an e-mail address for these purposes; upon cancellation of the agreement, the ESCO shall provide a cancellation number;
8. Verification of the date and time of the electronic agreement and authorization; and
9. Provision by the customer of the customer's name, address, distribution utility customer account number, and any additional information to verify the customer's identify.

Attachment 2 (cont.)

B. The ESCO shall, within three business days of any final agreement to initiate service to a customer, send an electronic confirmation notice to the customer at the customer's e-mail address.

C. The ESCO shall use an encryption standard that ensures the privacy of electronically transferred customer information, including information relating to enrollment, renewal, re-negotiation, and cancellation.

D. Upon request of a customer, the ESCO shall make available additional copies of the sales agreement throughout its duration. An ESCO shall provide a toll-free telephone number and e-mail address for a customer to request a copy of the sales agreement.

E. An ESCO shall retain in a retrievable format for no less than two years from the effective date of the customer's acceptance and documentation of a customer's agreement and/or authorization. In the event of any dispute involving an electronic agreement or authorization, the ESCO shall provide a copy of the customer's acceptance of the sales agreement or and/or authorization for release of information or on-line access to the acceptance and/or authorization within five calendar days after a request from the DPS.

Attachment 3

Written Agreement and Authorization Requirements

A. An ESCO may enter into a written agreement (original or fax copy of a signed document) with a customer to initiate service and begin enrollment or to obtain customer authorization for release of information. A sales agreement shall contain the following information, as applicable:

1. A statement that a signature on a sales agreement is an agreement to initiate service and begin enrollment;
2. A description of the specific prices, terms, and conditions of ESCO service applicable to the customer;
3. A description of the types of information that the ESCO needs to obtain from a distribution utility or MDSP, the purposes of its use, and effective duration of the authorization;
4. A statement that acceptance of a the agreement is an authorization for release of such information;
5. A customer signature and date; the sales agreement shall be physically separate from any check, prize or other document that confers any benefit on the customer as a result of the customer's selection of the ESCO;
6. A statement that a residential customer may rescind the agreement within three business days after signing the sales agreement; a statement that a customer may rescind the authorization for release of information at any time; provision of a local, toll-free telephone number, and/or e-mail address for these purposes; the customer may fax a copy of a signed sales agreement to the ESCO; upon cancellation of the agreement, the ESCO shall provide a cancellation number; and
7. The customer's name, mail and any e-mail address (if the customer chooses to provide it), distribution utility account number, and any additional information to verify the customer's identify.

B. ESCOs shall retain written agreements and/or authorizations for no less than two years from the effective date of the agreement and/or authorization. In the event of any dispute involving a sales agreement or authorization, the ESCO shall provide a copy of the sales agreement and/or authorization within five business days after a request from the DPS.

Attachment 4

Enrollment and Drop Requests
Information Requirements

A. An ESCO shall provide the following information for enrollment requests, and an ESCO or distribution utility shall provide the following information for drop requests:

1. Utility ID (DUNS# or tax ID);
2. ESCO ID (DUNS# or tax ID);
3. Commodity requested (electric or gas); and,
4. Customer's utility account number (including check digit, if applicable).

B. The following information is required for enrollment requests:

1. Customer's bill option;
2. For distribution utility rate ready consolidated billing:
   a. an ESCO's fixed charge, commodity price, sales and use tax rate or rate code;
   b. ESCO customer account number;
   c. budget billing status indicator; and,
   d. tax exemption percent and portion taxed as residential.
3. For Single Retailer Model: special needs indicator;
4. For gas service: gas capacity assignment/obligation indicator, and, if applicable, gas pool ID, gas supply service options, and human needs indicator;
5. For electric service: indicator for a partial requirements customer, if applicable;

C. For drop requests:

1. Reason for the drop;
2. For distribution utility request, service end date;
3. For ESCO initiated request, effective date of customer move, if applicable; and
4. For ESCO initiated request in Single Retailer Model, customer's service and mailing address.

CUSTOMER INQUIRIES

A. Applicability

This Section establishes requirements for responses by an ESCO or distribution utility to retail access customer inquiries. An ESCO or distribution utility shall respond to customer inquiries sent by means of electronic mail, telecommunication services, mail, or in meetings. The subjects raised in inquiries may result in the filing of complaints.

B. General

1. Distribution utilities and ESCOs shall provide consistent and fair treatment to customers.
2. Distribution utilities and ESCOs shall maintain processes and procedures to resolve customer inquiries without undue discrimination and in an efficient manner and provide an acknowledgement or response to a customer inquiry within 2 days and, if only an acknowledgement is provided, a response within 14 days.
3. Distribution utilities and ESCOs shall provide local or toll-free telephone access from the customer's service area to customer service representatives (CSRs) responsible for responding to customer inquiries and complaints.
4. CSRs shall obtain information from the customer to access and verify the account or premises information. Once verification is made, the CSR shall determine the nature of the inquiry, and, based on this determination, decide whether the distribution utility or the ESCO is responsible for assisting the customer.
5. The CSR shall follow normal procedures for responding to inquiries. If the inquiry is specific to another provider's service, the CSR shall take one of the following actions;

    a. Forward/transfer the inquiry to the responsible party;
    b. Direct the customer to contact the responsible party; or,
    c. Contact the responsible party to resolve the matter and provide a response to the customer.

6. Each distribution utility and ESCO shall maintain a customer service group to coordinate and communicate information regarding customer inquiries and designate a representative to provide information relating to customer inquiries to the DPS.
7. ESCOs may provide a teletypewriter (TTY) system or access to TTY number, consistent with distribution utility tariffs.

C. Specific Requests for Information

1. A distribution utility or ESCO shall respond directly to customer inquiries for any information that is related to commodity supply and/or delivery service, to the extent it has the necessary information to respond.
2. The entity responsible for the accuracy of meter readings shall respond to customer inquiries related to usage.
3. The distribution utility and ESCO shall respond to customer inquiries about billing and payment processing, in accordance with UBP Section 9, Billing and Payment Processing.

D. Emergency Contacts

1. An emergency call means any communication from a customer concerning an emergency situation relating to the distribution system, including, but not limited to, reports of gas odor, natural disaster, downed wires, electrical contact, or fire.
2. The ESCO CSR shall transfer emergency telephone calls directly to the distribution utility or provide the distribution utility's emergency number for direct contact to the distribution utility. If no ESCO CSR is available, the ESCO shall provide for after-hours emergency contacts, including transfer of emergency calls directly to a distribution utility or an answering machine message that includes an emergency number for direct contact to the distribution utility.
3. Each ESCO shall provide periodic notices or bill messages to its customers directing them to contact the distribution utility in emergency situations and providing the emergency number.

DISTRIBUTION UTILITY INVOICES

A. Applicability

This Section establishes procedures for invoices of charges for services provided by the distribution utility directly to an ESCO or Direct Customer. A distribution utility and ESCO or Direct Customer may agree to establish other arrangements and procedures for presentation and collection of invoices for services rendered.

B. Invoices

1. An ESCO or Direct Customer shall pay the full amount due, without deduction, set-off or counterclaim, within 20 calendar days after the date of electronic transmittal or postmarked date (due date). Subsequent to the due date, charges are overdue and subject to late payment charges at the rate of 1.5% per month. The overdue charges include the amount overdue, any other arrears, and unpaid late payment charges. The distribution utility may provide, upon request, supporting or back-up data in electronic form, if available on its computer system.
2. A distribution utility shall provide interest at the rate of 1.5% on an overpayment caused by the distribution utility's erroneous billing, provided that it may, without applying interest, credit all or a portion of the overpayment to the next bill issued within 30 days and/or refund all or a portion of the overpayment, upon request, within 30 days after its receipt. The distribution utility shall refund any credit balances, upon request.
3. An ESCO or Direct Customer shall make payments by means of an electronic funds transfer. A distribution utility shall use any partial payments first to pay any arrears and second to pay current charges.

C. Billing Inquiries and Disputes

1. An ESCO or Direct Customer shall make any claims relating to inaccuracies of invoices in writing no later than 90 calendar days after the date of electronic transmittal or postmarked date. ESCOs and/or Direct Customers are responsible for payment of disputed charges during any pending dispute.
2. A distribution utility shall designate an employee and provide a telephone number and e-mail address for receipt of inquiries from an ESCO or Direct Customer relating to invoices. The employee shall direct an ESCO or Direct Customer that presents an inquiry or complaint to the responsible and knowledgeable person able to explain charges on an invoice.
3. A distribution utility shall acknowledge in writing receipt of an inquiry within five calendar days after its receipt. A distribution utility shall investigate and respond in writing to the inquiry within 20 calendar days after its receipt.
4. A distribution utility shall refund any overpayments, including interest, within five calendar days after it makes a determination that an ESCO or Direct Customer made an overpayment. It may provide the refund by applying a

credit to any overdue amounts or making direct payment of any remainder. The distribution utility shall provide refunds by means of an electronic funds transfer. Interest is calculated at the rate of 1.5 % per month from the date of the overpayment to the refund.

5. No interest is required on overpayments voluntarily made by an ESCO or Direct Customer to an account, unless an overpayment is applied to security.

DISPUTES INVOLVING DISTRIBUTION UTILITIES, ESCOs OR DIRECT CUSTOMERS

A. Applicability

This Section describes the dispute resolution processes available at the DPS to resolve disputes relating to competitive energy markets involving utilities, ESCOs and/or Direct Customers, including disputes alleging anti-competitive practices. The processes are not available to resolve disputes between retail customers and ESCOs or distribution utilities. They are also not applicable to matters that, in the opinion of the DPS Staff, should be submitted by formal petition to the Public Service Commission for its determination or are pending before a court, state or federal agency. The availability of the processes does not limit the rights of a distribution utility, ESCO or Direct Customer to submit any dispute to another body for resolution.

B. Dispute Resolution Processes

The parties shall in good faith use reasonable efforts to resolve any dispute before invoking any of these processes. Distribution utility tariffs and operating and service agreements between the parties shall identify the processes used to resolve disputes, and shall refer to the dispute resolution processes described in this Section as acceptable processes to resolve disputes.

1. Standard Process

The parties shall use a method to send documents described in this paragraph that will verify the date of receipt.

Any distribution utility, ESCO or Direct Customer may initiate a formal dispute resolution process by providing written notice to the opposing party and DPS Staff. Such notice shall include a statement that the UBP dispute resolution process is initiated, a description of the dispute, and a proposed resolution with supporting rationale. DPS Staff may participate in the process at this or any later point to facilitate the parties' discussions and to assist the parties in reaching a mutually acceptable resolution.

a. No later than ten calendar days following receipt of the dispute description, if no mutually acceptable resolution is reached, the opposing party shall provide a written response containing an alternative proposal for resolution with supporting rationale and send a copy to DPS Staff.
b. No later than ten days after receipt of the response, if no mutually acceptable resolution is reached, any party or DPS Staff may request that the parties schedule a meeting for further discussions. The parties shall

meet no later than 15 calendar days following such request, upon advance notice to DPS Staff, unless the parties and DPS Staff agree upon another date. The DPS may assign one or more Staff members to assist the parties in resolving the dispute.

c. If no mutually acceptable resolution is reached within 40 calendar days after receipt of the written description of the dispute, any party may request an initial decision from the DPS. A party to the dispute may appeal the initial decision to the Public Service Commission.

d. If the parties reach a mutually acceptable resolution of the dispute, they shall provide to DPS Staff a description of the general terms of the resolution.

2. Expedited Process

In the event that an emergency situation arises to justify immediate resolution of a dispute, any party may file a formal dispute resolution request with the Secretary to the Public Service Commission asking for expedited resolution. An emergency situation includes, but is not limited to, a threat to public safety or system reliability or a significant financial risk to the parties or the public. The filing party shall provide a copy of the request to other involved parties and the DPS Staff designated to receive information related to dispute resolution under this Section. The request shall describe in detail the emergency situation requiring expedited resolution, state in detail the facts of the dispute, and, to the extent known, set forth the positions of the parties.

BILLING AND PAYMENT PROCESSING

A. Applicability

This Section establishes requirements[13] for billing and payment processing options offered by a distribution utility and ESCO in a multi-retailer model. This Section does not establish requirements for billing and payment processing in the single retailer model. A distribution utility and ESCO shall comply with the requirements established in this Section, unless they agree upon modifications or other procedures for billing and payment processing in a Billing Services Agreement.

B. Billing and Payment Processing Options: General Requirements

1. A distribution utility shall offer to ESCOs without undue discrimination the billing and payment processing options available in its service territory.
2. A customer participating in a retail access program shall select from the billing and payment processing options offered by ESCOs.
3. A distribution utility shall allow its customers to select, through their ESCOs, one of the billing and payment options available in the distribution utility's service territory.
4. An ESCO may offer to its customers billing and payment processing options available in the customer's service territory and shall maintain or provide for the capability of issuing a separate bill for its services under the dual billing option. An ESCO customer may direct the billing party to send its consolidated bills or dual bills to a third party for processing and payment.
5. A distribution utility or ESCO may perform the responsibilities of a billing party for a customer and the other provider (non-billing party) based upon the billing and payment processing options available to the customer and the customer's choice.
6. A distribution utility or MDSP shall make validated usage information available to the billing and non-billing parties at the time that the distribution utility or MDSP determines that the information is acceptable.[14]
7. Information on customer usage, billing, and credit is confidential. A distribution utility or MDSP may release such information, upon a customer's authorization, in accordance with the UBP Section 5, Changes in Service Providers.
8. A distribution utility and ESCO shall demonstrate the technical capability to exchange information electronically for their billing and payment processing options.
9. An ESCO shall provide 60 calendar days notice by mail, e-mail or fax to a distribution utility of any plan to offer a billing option that is not currently offered to its customers. The distribution utility may agree to a shorter notice period preceding initiation of the

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[13] The requirements are applicable when EDI is available upon issuance by the Commission of data standards applicable to a bill model and operational upon successful completion of the testing required for a bill model.

[14] A distribution utility or MDSP shall provide electronic interval data in summary form (billing determinants aggregated in the rating periods under a distribution utility's tariffs) via EDI and, if requested, in detail via an acceptable alternative electronic format if retrieved from meters.

option. The 60 calendar-day notice shall not impose any obligation on any party to proceed without a successful test of data exchange capability and the fulfillment of other obligations described in this Section. If an ESCO later changes its system, it shall provide adequate advance notice and conduct any additional testing required.

10. A distribution utility and an ESCO are responsible for separately remitting their tax payments to the appropriate taxing authorities.

C. Consolidated Billing: General Requirements

1. A distribution utility and ESCO shall establish in a BSA detailed expectations for their responsibilities, including consequences for any failure to carry out such responsibilities.
2. A distribution utility may use the bill ready or rate ready method[15] for issuing consolidated bills. An ESCO that offers consolidated billing shall use a bill ready method.
3. A customer receiving delivery service from a distribution utility that is a combination natural gas and electric corporation (combination retail access customer) may receive a consolidated bill for both energy services if:

    a. The distribution utility issues the consolidated bill;
    b. One ESCO supplies the customer with both natural gas and electricity;
    c. An ESCO supplying only one of the commodities agrees to bill for charges for the service provided by the other ESCO; or,
    d. Separate distribution utility accounts are established for each service.

4. A combination retail access customer may receive separate consolidated bills for each commodity or a dual bill for one commodity and a consolidated bill for the other provided that the distribution utility's system is capable of providing separate accounts for each commodity. A distribution utility shall establish bill cycles and payment due dates. A distribution utility may charge a fee, as set forth in its tariff, to an ESCO to establish, upon the ESCO's request, a separate account for one of the commodities the distribution utility provides.

D. Consolidated Billing: Functions and Responsibilities

1. A billing party shall perform the following functions and responsibilities:

    a. If the bill ready method is used, receive bill charges and other billing information from the non-billing party;
    b. If the rate ready method is used, receive rates, rate codes and/or prices (fixed and/or variable) and other billing information from the non-billing party;
    c. Receive bill messages and bill inserts from the non-billing party;
    d. If the bill ready method is used, acknowledge receipt of the non-billing party's information and accept or reject it;

[15] A distribution utility electing the rate ready method for utility consolidated billing is not obligated to calculate or bill separately for other goods and services that an ESCO may provide.

e. If the rate ready method is used,[16] calculate billed charges, including sales and use taxes; the non-billing party is required to provide the customer's sales and use tax rate to the billing party;
f. Print or make available electronically consolidated bills that state the non-billing party's charges, including taxes, arrearages, late fees, and bill messages;
g. Insert in bill envelopes consolidated bills and inserts required by statute, regulation or Public Service Commission order;
h. Stamp, sort and mail consolidated bills or, if authorized, transmit bills electronically;
i. Cancel and rebill charges;
j. Notify the non-billing party of amounts billed, by account, within two business days after rendering bills to customers;
k. Receive and record customer payments;
l. Allocate and transmit the non-billing party's share of receipts, by account, to the non-billing party;
m. Respond to general inquiries and complaints about the bill and its format; refer customers to the non-billing party for inquiries and complaints related to the non-billing party's rates, charges, services, or calculations; and,
n. Maintain records of billing information, including amounts collected, remaining and transferred, and dates.

2. If the bill ready method is used, each party shall calculate and separately state sales and use taxes applicable to its charges; if the rate ready method is used, the billing party shall calculate and separately state the state sales and use taxes applicable to its charges and the non-billing party's charges.
3. A party that requires a customer's deposit shall administer it. If a non-billing party applies a customer deposit to an outstanding balance, it shall notify the billing party.
4. Upon receipt of payments, a non-billing party shall notify the billing party.
5. To initiate consolidated billing using the rate ready method, the non-billing party shall provide the billing party with the rates, rate codes, and/or prices (fixed and/or variable) and tax rates necessary to calculate the non-billing party's charges. The billing party shall specify in the BSA the number of prices for each service class per commodity accepted, deadline for transmission, effective date, and acceptable frequency of changes.[17]
6. The billing party may process special handling requests from customers provided that it obtains agreement from the non-billing party for requests that affect it;

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[16] A distribution utility is not required to calculate or bill for ESCO services that are not directly related to the commodity it delivers.

[17] If a billing party's billing system is capable of providing the service, a billing party shall, upon request, apply a different rate, rate code, and/or price and tax rate to usage during different portions of the billing cycle to service provided after the effective date of the change. The non-billing party shall request a change in the rate, rate code, and/or price no later than four business days prior to the effective date requested.

7. The billing party is not required to calculate or provide separate statements to customers regarding gross receipts taxes applicable to a non-billing party's charges. The non-billing party may calculate and provide information on the gross receipts taxes applicable to its charges in a bill message or, if the bill ready method is used, as a line item on the bill.
8. The non-billing party may offer special billing features, such as budget billing or average payment plans.

E. Consolidated Billing: Initiation, Changes or Discontinuance

1. Initiation

a. An ESCO that proposes to issue consolidated bills shall establish and provide to a distribution utility written procedures for billing and payment processing that ensure billing accuracy and timeliness, proper distribution of a distribution utility's bill messages and inserts, and proper allocation and transfer of distribution utility funds.
b. No distribution utility may impose a fee on an ESCO to process its application to offer consolidated billing.

2. Changes

A request to change a customer's billing option shall be made on or before 15 calendar days prior to the scheduled meter reading date.

3. Suspension and Discontinuance

a. A distribution utility may suspend or discontinue an ESCO's right to offer consolidated billing as a billing party or a non-billing party for failure to comply with a Billing Services Agreement. Suspension of the right to offer consolidated billing means that the ESCO is prohibited from offering consolidated billing to new customers.
b. Upon a determination by a distribution utility to suspend or discontinue an ESCO's right to offer consolidated billing to customers, it shall provide notice on or before 15 calendar days prior to the proposed date for the suspension or discontinuance (cure period) to the ESCO and state the reason for its determination. Upon failure of the ESCO to correct the deficiency on or before the expiration of the cure period, the distribution utility may require a change to dual billing for the ESCO's customers.
c. Upon discontinuance of consolidated billing rights, an ESCO may reapply to the distribution utility to offer consolidated billing. A distribution utility shall expedite consideration of such requests. Customers may begin receiving consolidated bills again after requirements are satisfied, including submission of transaction requests to establish consolidated billing for customers.

F. Consolidated Billing: Customer Requests

1. A customer may request an ESCO to change its billing option. The ESCO shall request the bill option change on or before 15 calendar days prior to the scheduled meter reading date. An EDI change request is used to request a change in a customer's bill option. After receipt of the change request, a distribution utility shall, within one business day, acknowledge receipt of the request and, within two days, provide a response indicating rejection and the reason or acceptance and the effective date.
2. No distribution utility may impose a charge on a customer or an ESCO for changing a billing option.
3. When more than one request to change a customer's billing option is transmitted for a billing cycle, a billing party shall accept the last timely request received.
4. A distribution utility may deny a request to initiate consolidated billing or discontinue consolidated billing for a customer with an amount past due for at least 38 calendar days, unless the past due amount is subject to a DPA and the customer is fulfilling DPA obligations.

G. Consolidated Billing: Content

1. A billing party may decide upon the format for its consolidated bill provided that it states a summary of total charges and separately states distribution utility and ESCO charges in sufficient detail to allow a customer to judge their accuracy. Such separate statements shall appear in clearly separated portions of the bill and identify their source, distribution utility or ESCO. An ESCO that provides consolidated billing shall state on its consolidated bill the unadjusted distribution utility charges for delivery services provided by a distribution utility, without change.
2. A consolidated bill shall contain the information listed in Attachment 1 – General Information, preferably in a summary section. The billing party may place the information on the bill in any order or location.
3. A consolidated bill shall contain the information listed in Attachment 2 – Distribution Utility Content, separately stated for each distribution utility.
4. A consolidated bill shall contain the information listed in Attachment 3 – ESCO Content, separately stated for each ESCO.
5. If the rate ready method is used, the ESCO shall provide to the distribution utility information listed in Attachment 3 – ESCO Section Content, to the extent necessary for the distribution utility to calculate and issue bills. To initiate utility consolidated billing using the rate ready method, an ESCO shall provide the information to the distribution utility on or before 15 calendar days prior to the scheduled meter reading date. An ESCO may request a price or rate change no later than four business days prior to its effective date.
6. If a billing party and non-billing party agree to show the non-billing party's logo on the bill, the non-billing party shall provide it in an acceptable electronic format at least thirty days before its initial use.
7. If the rate ready method is used, a non-billing party is not required to provide information after it is initially submitted, except when a change is made.

8. When an ESCO issues a consolidated bill and the distribution utility transmits bill ready data, the distribution utility shall transmit to the ESCO at the appropriate time the applicable information listed in Attachment 2 – Distribution Utility Content, items d – q, and the customer's name and service address.
9. When an ESCO issues consolidated bills on behalf of other ESCOs and distribution utilities and the other ESCOs provide information, the non-billing ESCOs shall provide bill ready information listed in Attachment 3 – ESCO Content to the billing ESCO.
10. No party shall engage in cramming.
11. A non-billing party may display its bill messages up to 480 characters in length on the bill provided that the billing party raises no reasonable objection to the message. There is no limit in message length for the billing party. If the bill ready method is used, the non-billing party shall transmit the text of the messages or agreed upon message codes in the same EDI transaction as the billed charges. If the rate ready method is used, a non-billing party shall submit a common bill message on or before 15 calendar days before the date used. Unless a final print date is provided, the billing party shall continue to print the message on bills until the non-billing party transmits a different message or requests its discontinuance. In emergencies requiring printing of messages on bills, the billing party shall accommodate the needs of the non-billing party, if practicable.
12. The billing party shall, in a timely manner, print on bills or insert into bill envelopes information that a statute, regulation, or Public Service Commission order requires a distribution utility or ESCO to send to its customers. The billing party may not assess charges for inclusion of required inserts that do not exceed one-half ounce. A distribution utility may charge for any excess weight in accordance with its tariff. The party responsible for providing the information shall submit it to the billing party. If the information is provided in a bill insert, the responsible party shall deliver the inserts in preprinted bulk form in a proper size on or before 15 calendar days before the date requested for initiation of distribution to customers to a location designated by the billing party.
13. Due dates and other general payment terms and conditions shall be identical for distribution utility and ESCO charges, unless different terms and conditions would have no impact on them. In the event of a conflict, the distribution utility's payment terms and conditions shall govern.

H. Consolidated Billing: Bill Issuance

1. No late charge may be applied to customers' bills for distribution utility charges, if payment is received by the billing party within the grace period.
2. If the bill ready method is used, the non-billing party shall transmit its charges and other information to the billing party on or before two business days after receipt of valid usage data for a customer account. If the rate ready method is used, the non-billing party shall transmit any revisions in rate and/or price data to the billing party on or before four business days prior to the prescribed date.
3. If the bill ready method is used, a billing party that receives a non-billing party's transaction within the prescribed time and rejects the transaction for cause shall, within one business day after receipt of the transaction, send the non-billing party an EDI reject transaction and state the reason for the rejection. The non-billing party may, if time

permits, submit a corrected file containing billing charges for inclusion in the current billing statement.

4. If a non-billing party's transaction is sent to the billing party outside the prescribed time frame, the billing party may reject the transaction and shall notify the non-billing party on or before two business days after its receipt that the charges were not billed. The non-billing party may resubmit its charges the following billing period in accordance with prescribed time limits and without late charges. If the bill ready method is used, the non-billing party may submit a separate bill to the customer and notify the billing party of the action. The parties may also agree that the billing party shall hold the non-billing party's charges for inclusion in the next bill.
5. If a non-billing party's transaction is accepted using the bill ready method, the billing party shall render a bill within two business days after receipt of the transaction. If a rate ready method is used, a billing party shall render a bill in accordance with the distribution utility's regular bill issuance schedule. A bill is rendered upon transfer to the custody of the U.S. Postal Service or other delivery service or, if authorized by a customer, sent electronically to a valid e-mail address or telefax number, displayed on a secure web site, or presented directly to the customer or customer's representative.
6. If the billing party has not purchased a non-billing party's accounts receivable, is able to process the non-billing party's transaction, and is unable to render a bill within the prescribed time, the billing party shall notify the non-billing party immediately. A billing party shall afford customers the same grace period to pay the bill.
7. If the rate ready method is used, the billing party shall provide to the non-billing party within two business days after bill issuance, a statement of the accounts billed, date of issuance and amount of the non-billing party's charges shown on the bill (past due, current, and late payment charges and taxes).

I. Consolidated Billing: Cancellations and Rebills

1. If non-billing party errors occur and are not corrected before the bill is issued, a billing party is not required to cancel bills or issue new bills. The non-billing party shall provide any necessary explanations to the customer and billing party and make any necessary adjustments on the next bill.
2. If billing party errors cause the non-billing party charges to miss the billing window, the billing party shall cancel and reissue the bills within two business days after notification, unless the billing party and non-billing party arrange an alternative bill correction process.[18] A billing party shall afford customers the same grace period to pay bills.
3. If no party errs, the parties may agree to cancel and rebill.
4. To cancel a bill, a billing party shall:

    a. Cancel usage by billing period;
    b. Send consumption in the cancel transaction that matches consumption sent in the original transaction;

[18] Such errors do not include usage-related adjustments necessary when an actual meter reading becomes available to replace an estimated reading required, for example, because a customer denies access to a meter.

c. Send cancelled usage at the same level of detail as the original usage;
d. Using the rate ready method, if a bill is to be cancelled and reissued, recalculate charges and issue revised bills to customers within two business days after receipt of the revised usage data;
e. Using the bill ready method, if a bill is to be cancelled and reissued, issue the revised bill to customers within two business days after receipt of the revised usage data.

5. To restate usage for a period, the distribution utility or MDSP shall first cancel usage for that period and then send the full set of restatement transactions.

J. Consolidated Billing: Payment Processing and Remittance

1. The parties shall set forth their responsibilities, performance parameters, financial arrangements and other details associated with payment processing and remittance in a BSA, subject to the requirements in this Section.

   a. In the Pay-as-You-Get-Paid Method, the billing party sends payments to the non-billing party, within two business days of receipt and posting of the funds and processes the payments in accordance with the required priority for application of payments established in this Section.
   b. A BSA shall establish procedures for processing payments made on any purchased accounts receivable.

2. Payment Processing

   a. The billing party shall notify the non-billing party that payment is received and send payments to the non-billing party, within two business days after receipt and posting, by use of Electronic Funds Transfer (EFT), Automated Clearing House (ACH), or similar means to banks or other entities as agreed upon by the parties. The notice shall include, in account detail, the payments received from customers, the date payments are posted, the date payments are transferred, and the amounts allocated to the non-billing party's charges.
   b. The billing party may impose late payment charges on unpaid amounts not in dispute for the non-billing party provided the terms of the late payment charges are stated in a tariff or a sales agreement and previously disclosed to the customers. If the bill ready method is used, each party shall calculate its late payment charges. If the rate ready method is used, the billing party shall calculate the non-billing party's late payment charges under terms agreed upon by the parties. If a customer's check is returned for any reason, the billing party may charge the customer's account for the return fee and any reasonable administrative fee.
   c. Upon failure of the billing party to pay the non-billing party its proper share of customer payments within two business days after their receipt and posting or at the time agreed upon when accounts receivable are purchased, the billing party shall pay interest on the unremitted amount. The billing party shall calculate the interest at the rate of 1.5 percent per month from the date the payment was due to be

received by the non-billing party or its bank.[19] The payment of interest is in addition to, and not in lieu of, the rights and remedies otherwise available to the parties.

3. Collections

The billing party is not responsible for collection of non-billing party funds, unless agreed to in a BSA.

4. Application of payments

a. The billing party[20] shall allocate customer payments to the following categories of charges on the bill or contained in a notice that are not in dispute in this order of priority of payment: (1) amounts owed to avoid termination, suspension or disconnection of commodity or delivery service; (2) amounts owed under a DPA, including installment payments and current charges; (3) arrears; and (4) current charges not associated with a DPA. The billing party shall pro-rate payments to the charges within each category in proportion to each party's charges in that category. After satisfaction of the charges in a category, assuming available funds, the remainder of the payment shall apply to the next highest category according to the priority of payments and in the same manner as described above until the payment is exhausted.

b. The billing party may retain any payment amounts in excess of the amounts due as prepayments for future charges or return the excess amounts to customers. The billing party shall, in a timely manner, combine any excess payment amounts with the customer's payment on the next bill, and allocate and pro-rate the sum as set forth in § 9.J.4.a.[21]

c. When the billing or non-billing party enters into a multi-month payment agreement with a customer or waives any charges, that party shall notify the other party of such action.

d. The billing party shall hold payments received without account numbers or enough information for the billing party to identify the accounts and attempt to obtain

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[19] Upon request, the billing party shall provide the non-billing party with a verified copy of the posting log of payments received and transferred to the non-billing party during any calendar month specified by the non-billing party.

[20] Distribution utilities supplying delivery service for both natural gas and electricity to customers receiving consolidated bills shall apply the receipts to the separate services in accordance with their regular procedures. Where a consolidated bill displays delivery charges for separate gas and electric distribution utilities, the customer’s payments shall be first prorated between the utility accounts in accordance with the amount each is due compared with the total amount due both distribution utilities.

[21] Where the customer elects to make a charitable donation, such as funding a low income program, satisfaction of the donation shall be made prior to allocation and pro-ration of the customer's excess payment.

information to identify the payer. If sufficient information is not obtained to identify the account information prior to the next bill, the billing party shall present the unpaid amount and late charge, if applicable, on the bill. If the customer contacts the billing party to inquire about the late charge and the lack of payment credit, the billing party shall resolve the matter and reverse the late charges. The billing party shall notify the non-billing party of the matter and its resolution and then allocate payments as necessary to balance the account.

5. Multiple Account Payment Processing

Processing of a single customer payment for multiple accounts requires proactive action on the part of the billing party and the non-billing party to apply payments correctly. The parties shall set forth arrangements for multiple account payment processing in a Billing Services Agreement.

6. Non-billing Party's Balance

a. Except as provided in § 9.J.6 d., when a final bill is issued, the billing party shall maintain a current and past due balance for each account of the non-billing party until payment of the last bill issued for service provided by the non-billing party or 23 days after issuance of such bill, whichever is sooner. After such time, the account shall be considered "inactive."
b. Except as provided in § 9.J.6 d., when a customer changes to a new ESCO, the billing party shall continue to receive and apply a customer's payments for the active account of the prior ESCO. If the customer does not pay the outstanding balance owed to the prior ESCO on or before 23 days after the final bill containing the prior ESCO's charges is issued, the billing party shall notify the ESCO and report the balance due.
c. With regard to a new distribution utility/ESCO relationship following a change of ESCOs or a change in a distribution utility, the new billing party shall, upon request of the new non-billing party, bill for the balances that may exist at the time of the change. The new billing party may include the arrears on current bills or in a separate bill if its billing system is not capable of accepting prior charges. If a change of providers occurs, a distribution utility is not required to post any arrears of the prior ESCO on consolidated bills issued after the final billing of its charges, unless the arrears become the property of the new ESCO and it provides documentation of its property right to the distribution utility.
d. Upon ESCO termination of the commodity supply of a residential customer due to failure to pay charges, the billing party shall maintain a current and past due balance for the account of the termination ESCO for one year from the date of termination by the ESCO. In the event that the terminating ESCO seeks suspension of delivery service within one year of the termination, or the residential customer has a DPA, the billing party shall maintain a current and past due balance for each account of the terminating ESCO until the arrears are paid in full.

7. Customer Disputes: Initiating a Bill Complaint

   a. A customer or authorized representative may initiate a customer complaint regarding some or all of the charges on the customer's bill at any time.
   b. When a complaint relates to the entire bill, to only the billing party's charges or services, or, using the rate ready method, to calculation of the billing or non-billing party's charges, the customer should contact the billing party. The billing party shall resolve the complaint and, if appropriate, place the customer's account in dispute. In the event the inquiry concerns only a non-billing party's bill, charges, services, or calculations, the billing party shall refer the customer to the non-billing party.

8. Customer Complaints: Notification

   a. Upon a determination that a complaint affects the entire bill, the billing party shall notify the non-billing party of the subject and amount in dispute, if known.
   b. The non-billing party shall inform the billing party of disputes related to non-billing party charges that would affect the billing process.
   c. Once such complaints are resolved and the billed amounts are no longer in dispute, the other party shall be notified.

K. Consolidated Billing: Call Centers

A billing party shall provide call centers with toll-free or local telephone access available 24 hours a day and an answering machine or voice mail service during the hours when call center staff is not available. A billing party shall maintain adequate staff to respond to customers' inquiries or refer inquiries to the non-billing party, where appropriate, within two business days.

L. Dual Billing

1. The distribution utility and ESCO, acting as separate billing parties, shall render separate bills directly to the customer or the customer's representative. The customer or its representative shall pay the distribution utility and the ESCO separately.
2. The distribution utility's bill shall conform to the standards set by the Public Service Commission.
3. The distribution utility or MDSP shall transmit usage data to the ESCO at the time the information is available for rendering bills to customers, which may or may not coincide with meter reading cycle dates.
4. The ESCO may decide upon its bill format provided that it states its charges in sufficient detail to allow customers to judge the accuracy of their bills. At a minimum, an ESCO shall provide the following information:

   a. Customer's name and billing address and, if different, service address;

b. Customer's account number or ID;
c. Period or date associated with each product or service billed;
d. Name of the entity rendering the bill;
e. Address to which payments should be sent or the location where payments may be made;
f. Local or toll free number for billing inquiries; if an ESCO enrolls and communicates with customers electronically, an e-mail address and telephone number with area code;
g. Due date for payment and a statement that late payment charges shall apply to payments received after the due date; and
h. Amount and date of payments received since the last bill.

5. Whenever a distribution utility or MDSP cancels consumption for an account, it shall provide a notice of cancellation and restated billing parameters for the account to an ESCO and a distribution utility, if applicable, and shall:

   a. Cancel usage by billing period;
   b. Send consumption in the cancel transaction that matches consumption sent in the original transaction;
   c. Send cancelled usage at the same level of detail as the original usage; and,
   d. To restate usage for a period, cancel usage for that period and send the full set of billing parameter restatements.

Attachment 1

General Information

a. Customer name
b. Service address
c. Billing address, if different than service address
d. Billing party account number, if any
e. Start of billing cycle period (prior meter reading date for metered customers)
f. Starting period meter reading (for metered customers)
g. End of billing cycle period (current meter reading date for metered customers)
h. Ending period meter reading (for metered customers)
i. Billing period metered usage, any multiplier necessary to convert usage to billing units and resulting billing units (for metered customers)
j. Billing period demand, if applicable
k. Indicators, if usage is estimated, actual or customer provided
l. Total current charges (total of billing and non-billing party charges, including late charges and taxes)
m. Total prior billed charges (total of billing and non-billing party prior bill charges, including prior late charges and taxes)
n. Total credits since last bill (total of billing and non-billing party credits);
o. Date through which the credits are applied
p. Total current bill (total of billing and non-billing party charges plus prior bill charges less credits)
q. Billing party name (and billing party logo, if billing party wishes it shown)
r. Billing party address
s. Billing party toll-free or local telephone number, and for a billing party that enrolls and communicates electronically with customers, an e-mail address and telephone number with area code, in lieu of a toll-free or local telephone number
t. Distribution utility toll free-or local telephone number and emergency telephone number
u. Method and location for payments
v. Date of bill
w. Payment due date
x. Billing party messages of any length that apply in general to the bill and services provided by billing and non-billing parties, that are not reasonably objectionable to the parties

Attachment 2

Distribution Utility Content

a. Distribution utility name, and logo, if the parties agree
b. Distribution utility address, if the distribution utility is not the billing party
c. Distribution utility toll-free or local telephone number for inquiries about the distribution utility portion of the bill, if the distribution utility is not the billing party, and distribution utility emergency number
d. Distribution utility customer account number, if the distribution utility is not the billing party
e. Distribution utility rate classification identifier
f. Distribution utility rates per billing unit, if applicable
g. Distribution utility rates not based on billing units, if applicable, and unbundled, if applicable
h. Distribution utility charge adjustments and adders, separately stated
i. Taxes on distribution utility charges, if separately stated
j. Billing period total distribution utility charges
k. Prior billing period total distribution utility charges, including any prior late charges
l. Credits on prior distribution utility charges
m. Net prior distribution utility balance remaining, unless included in total prior billed charges stated in the General Information Section
n. Late charge for unpaid prior distribution utility balance, unless included in total prior billed charges stated in the General Information Section
o. Total amount due for distribution utility services
p. If a budget bill, applicable billing information and resulting budget bill amount due for distribution utility services
q. The distribution utility's bill message, if any, up to 480 characters, if the distribution utility is not the billing party

Attachment 3

ESCO Content

a. ESCO name and logo, if parties agree
b. ESCO address, if the ESCO is not the billing party
c. ESCO toll-free or local telephone number for billing inquiries if the ESCO is not the billing party; ESCOs that enroll and communicate electronically with customer may provide an e-mail address and telephone number with area code in lieu of a toll-free or local telephone number; if a rate ready method is used, the billing party shall include a notice directing ESCO customers to call the billing party first to clarify bill calculations
d. ESCO account number, if the ESCO is not the billing party and has a unique account number
e. ESCO rate classification, if applicable
f. ESCO rate per billing unit, if applicable
g. ESCO rate not based on distribution utility unit, if applicable
h. ESCO charge adjustments and adders, if any, separately stated
i. Taxes on ESCO charges, if required to be separately stated
j. Billing period total ESCO charges
k. Prior billing period total ESCO charges, including any prior late charges, unless included in total prior billed charges stated in the General Information Section
l. Credits on prior ESCO charges
m. Net prior ESCO balance remaining
n. Total amount due for ESCO services
o. If a budget bill, applicable billing information and resulting budget bill amount due
p. The ESCO’s bill message, if any, up to 480 characters, if the ESCO is the non-billing party.