

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on August 23, 2006

COMMISSIONERS PRESENT:

William M. Flynn, Chairman  
Patricia L. Acampora  
Maureen F. Harris  
Robert E. Curry, Jr.  
Cheryl A. Buley

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

ORDER MODIFYING ELECTRONIC DATA  
INTERCHANGE (EDI) TESTING PROTOCOLS

(Issued and Effective September 13, 2006)

BY THE COMMISSION:

INTRODUCTION

By various orders in this proceeding, distribution utilities and energy services companies (ESCOs) are required to adhere to technical protocols established by the Commission for the electronic exchange of data necessary to support utility customer access to competitive retail electricity and gas suppliers. The technical standards governing Electronic Data Interchange (EDI) systems (a) define the content and format for specific electronic messages exchanged between utilities and ESCOs (transaction set standards), such as a request to enroll a customer for commodity service transaction, (b) define how electronic messages should be transmitted (internet based connectivity standards) or (c) define the scope of required testing activities that must be successfully completed prior to transmitting the first EDI transaction (test plans).

One of the requirements to deem an ESCO eligible to sell natural gas or electricity in New York State is to successfully complete EDI Phase I testing, as determined by the Department of Public Service (DPS) test moderator.<sup>1</sup> Following receipt of a DPS eligibility letter, the ESCO must also then complete EDI Phase II or Phase III testing conducted by the distribution utility in whose service territory it intends to offer its services.<sup>2</sup>

Utilities are required to complete Phase II testing with a designated ESCO test partner prior to implementing an EDI Transaction Set Standard. The Technical Operating Profile (TOP),<sup>3</sup> first issued in July 2001, describes the procedures for Phase I tests and Supplement 1 to the Technical Operating Profile, first issued in November 2001,<sup>4</sup> prescribes Phase II and III test procedures. Although these documents were modified in February 2003<sup>5</sup> to add test scenarios for new standards the basic

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<sup>1</sup> Case 98-M-1343, In the Matter of Uniform Business Practices, Order Adopting Revised Uniform Business Practices (issued November 21, 2003)[hereinafter, the "November 2003 UBP Order"].

<sup>2</sup> The Uniform Business Practices are predicated on the assumption that retail access data is being exchanged via EDI.

<sup>3</sup> Case 98-M-0667, In the Matter of Electronic Data Interchange, Opinion and Order Approving EDI Data Standards and Data Protocols and Modifying the New York Uniform Business Practices for EDI Implementation, Supplement E (issued July 23, 2001).

<sup>4</sup> Case 98-M-0667, In the Matter of Electronic Data Interchange, Order Approving EDI Test Plans and Data Standards, Supplement A (issued November 8, 2001).

<sup>5</sup> Case 98-M-0667, In the Matter of Electronic Data Interchange, Order Approving and Modifying Transaction Standards, Test Plans and Remittance Procedures, Supplement E (TOP) and Supplement F (TOP Supplement 1) (issued February 24, 2003).

testing procedures have not been reviewed since they were originally adopted in 2001.

This order focuses on the need to update and revise Phase III testing procedures to reduce delays experienced by ESCOs in utility-conducted testing and associated ESCO testing complaints, to recognize that it is no longer necessary for utilities to establish batch test queues,<sup>6</sup> to require utilities to file monthly Phase III testing reports, and to authorize DPS Staff to resolve testing complaints. Notice of the proposed changes was published in the State Register on March 22, 2006 and the minimum period for receipt of comments pursuant to the State Administrative Procedure Act has expired.

Comments supporting the proposed changes were filed by Fluent Energy (Fluent), an entity that provides technical consulting and procurement services to numerous retail access participants throughout New York. Joint comments opposing the proposed changes were filed by the following utilities (Joint Utilities): National Fuel Gas Distribution Corporation (NFG), Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities Inc.(Con Edison/O&R), Niagara Mohawk Power Corporation d/b/a National Grid (Grid), the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island (KeySpan), New York State Electric and Gas Corporation and Rochester Gas and Electric Corporation (NYSEG/RG&E).

#### OVERVIEW OF EDI TESTING

The scope of EDI testing for a specific ESCO or utility is based on the ESCOs business plan and/or the operating practices of the specific distribution utility conducting the

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<sup>6</sup> When testing is done in "batch" two or more ESCOs are tested simultaneously.

testing,<sup>7</sup> as well as test plans and procedures issued by the Commission.<sup>8</sup>

Phase I

Phase I consists of submission of sample EDI transactions for review by the DPS Test Moderator to demonstrate that the utility or ESCO has the capability to generate specific electronic transactions that comply with Transaction Set Standards adopted in New York. Phase I tests must be completed prior to advancing to interactive testing with another entity (Phase II or III testing). The DPS Test Moderator provides email confirmation to each entity that has successfully completed Phase I tests.<sup>9</sup>

Phase II

Phase II testing is conducted by a utility with an EDI-experienced ESCO to verify that the utility's EDI system is ready to undertake full-scale electronic data transfers in compliance with the approved transaction standards. A utility is only expected to conduct Phase II testing once for each Transaction Set Standard applicable to its operations unless there are significant modifications in a specific Standard.<sup>10</sup>

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<sup>7</sup> Factors such as the type of customers to be served, the commodities to be offered, the customers bill option, and the consolidated billing model offered by the distribution utility determine the scope of each testing phase.

<sup>8</sup> A test plan for each New York published EDI data standard had been approved on or before June 20, 2003.

<sup>9</sup> The certification date for completion of Phase I tests is posted on the DPS web site by entity and transaction set standard.

<sup>10</sup> Utilities are expected to complete programming and conduct Phase II testing for a Transaction Set Standard within six months of the date the test plan for that Standard is issued.

ESCOs designated as Phase II test partners are not required to also complete Phase III testing with its utility test partner.

Phase III

Phase III testing is conducted between an ESCO and a utility to ensure that the ESCO can successfully send and receive EDI transactions, compliant with New York standards, for the business model chosen by the ESCO for each service territory for which DPS has determined they are eligible and in which they elect to participate. Generally, the testing procedures adopted in 2001 require each utility to establish testing schedules and publish those schedules on its web site, begin testing within 60 calendar days of an ESCOs request, notify testing applicants of the date testing will begin, schedule an initial meeting with test applicants, and provide applicants with specific instructions (and test data) necessary for testing.

NEED FOR CHANGES

Phase III testing with any utility may take up to six weeks to complete and is the most time-consuming utility-specific requirement for ESCO eligibility. Accordingly, Staff is contacted to intervene when a utility does not provide a timely response to an ESCO's test request (i.e., either placement in a published test queue or a start date for testing). When an ESCO cannot be accommodated in the next available batch or within 30 days of its request, it may have to wait an additional two months for placement in the next queue. Therefore, it is critical to resolve any test disputes as quickly as possible.

Thus far, the majority of ESCO complaints regarding the Phase III testing process concern utilities that conduct testing according to published batch test queues on a quarterly basis. The current TOP requirement for 30 day advance notice by an ESCO of its intent to test, coupled with the requirement that

a utility must commence testing no later than 60 days following an ESCO's request, juxtaposed against, for example, a quarterly test schedule means that a new entrant may have to wait up to four months following DPS eligibility before commencing operations in some service territories. Staff advises that it has received letters and phone calls from three separate EDI service vendors complaining about the length of the delays in testing in New York. The vendors note that these delays are unnecessary and that in other states "utilities are much more accommodating when it comes to schedules and actually cooperating."

Staff's Proposal

Staff proposes to update the TOP Supplement 1 document to reflect the status of the current market and to be responsive to complaints made by ESCOs and applicants seeking to become ESCOs. The Staff proposal would revise the procedures to recognize that some utilities currently conduct Phase III testing on an "as needed" rather than on a batch basis. Those utilities, while offering applicants more flexibility in initiating Phase III testing, are not in compliance with the current TOP requirement to publish test schedules on their web sites for review by potential new applicants.

Accordingly, since the "as needed" approach is a desirable option, Staff proposes that the TOP Supplement 1 procedures should be updated to recognize that conducting testing on an "as needed" basis, although not required, is an acceptable practice. The Staff proposal also contains corrections to certain references to other documents and updates the document to reflect the full list of currently published TOP Supplements. Further, Staff proposes to modify Section V (Test Scheduling) item 4 of the TOP document to minimize testing delays experienced by recent applicants, to provide for reports

to enable Staff to monitor Phase III testing practices, and to facilitate more effective resolution of applicants complaints regarding testing.

Testing Start Date

Currently, an ESCO applicant is responsible for reviewing the utility's published test schedule and contacting the utility a minimum of 30 days prior to the date it expects to begin testing. Where two or more ESCOs are competing for the same start date, each ESCOs Phase I certification date is used to assign places in a test queue. Per TOP Supplement 1, each ESCO applicant must complete and submit a pre-test worksheet to the utility. Some utilities require ESCOs to complete all other utility specific eligibility requirements prior to beginning Phase III testing.<sup>11</sup> Depending upon the nature of the tests to be conducted, an ESCO can be expected to complete Phase III testing for core transactions<sup>12</sup> in two weeks and testing for single bill transactions in an additional two to three weeks if no problems occur in the testing process.

Staff believes that it is reasonable for an applicant desiring to qualify as an ESCO to expect, on average, to be able to satisfy all New York eligibility requirements [Independent System Operator (ISO), DPS, and distribution utility] and begin serving customers within four months of filing a Retail Access Application Form with the DPS. Recent experience has shown that new entrants can expect to be deemed an eligible ESCO by DPS in

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<sup>11</sup> For example, provide evidence that the applicant is eligible to conduct business through the New York ISO (electric) or has sufficient firm pipeline capacity (gas), satisfy the utility's creditworthiness criteria and post security as necessary, execute operating, billing services or trading partner agreements, etc.

<sup>12</sup> "Core transactions" include Enrollment, Drop, Reinstatement, Change, Usage and Request for History.

three to four weeks depending upon whether the applicant intends to serve residential or only commercial customers. To achieve the four month goal a new applicant should be assured that, if ready, it can comply with all utility specific eligibility requirements, including Phase III testing, within three months of receipt of DPS certification. Phase III testing for both core and billing transactions (including connectivity) approximates six weeks at most utilities. Accordingly, new entrants have adequate time to satisfy any non-testing requirements of the utility and/or demonstrate readiness to commence testing while waiting for interactive testing to begin or while testing is in progress.

The current requirement is that utilities must begin Phase III testing within 60 calendar days of an ESCOs test request. Staff proposed to modify the TOP document to state that ESCOs must notify utilities a minimum of 30 calendar days prior to the date they are ready to begin Phase III testing and that utilities must begin testing within 45 calendar days of receipt of an ESCOs test request. Staff's motivation in seeking this change is to satisfy numerous legitimate complaints raised by vendors and ESCOs regarding test delays and to ensure that new ESCO eligibility can be accomplished in the reasonable timeframe described above.

The Joint Utilities state that, since completion of statewide implementation of EDI, they "can generally accommodate a quick turn-around on any single ESCO's request for testing." They note, "however, [that] there are instances when requests from multiple ESCOs arrive simultaneously. In those instances it is difficult, depending on the number of ESCOs requesting testing, to ensure that testing begins within 60 days." The utility parties assert that "they have worked hard to accommodate the 60-day guideline. Mandating that testing begin

within this period or a shorter period will increase the likelihood that test schedules would overlap, complicating the testing process and possibly increasing the overall testing duration for all parties."

In their view, shortening the period from 60 to 45 days removes the flexibility they believe is still needed to accommodate situations in which multiple concurrent requests are received from ESCOs. The Joint Utilities are concerned that implementing a 45 day requirement will result in an outcome of testing on an individual basis for every new entrant. Staff does not believe that the Joint Utilities have demonstrated that the changes proposed by Staff would result in an outcome of testing on an individual basis for every new entrant because the 30 day advance notice requirement allows utilities time to schedule the tests in batches if appropriate.

The Joint Utilities further assert that in some cases the request date is an inappropriate point to start the testing timeline and a more appropriate starting point is the date the ESCO is ready to begin testing. According to the Joint Utilities, the ESCO-ready date is best defined as the date the ESCO provides the utility with a commitment of ESCO personnel resources and a completed accurate TOP connectivity profile along with satisfaction of all other UBP and utility requirements to provide service in the utility's service territory.

#### Discussion

Prior to the date the utility has designated as the start date for testing, the ESCO may be required to demonstrate readiness to commence testing by, as suggested by the utilities, submission of an accurate connectivity profile and designation of specific ESCO personnel to conduct testing. However, the suggestion that "readiness" must also include satisfaction of

all other UBP and utility requirements to provide service in the utility's service territory is rejected. For example, Section 2 (Eligibility Requirements) of the UBP (at E.2.) clearly contemplates that execution of an operating agreement with the utility follows, rather than precedes successful completion of EDI Phase III testing. Further, the Joint Utility parties have not provided justification for mandating that all other utility specific requirements must be met before Phase III testing can be initiated. There are other remedies to encourage ESCOs to properly prepare for testing and/or discourage frivolous test requests<sup>13</sup> if that is the concern.

Further, the date of the test request was the starting point in the original TOP document and the utilities have not provided a compelling reason to modify this aspect of the document. ESCOs may not submit requests to test any earlier than the date they receive their DPS certification letter and should not request to be scheduled for Phase III testing if they are not ready. New entrants must complete connectivity testing before conducting interactive Phase III tests. If an ESCO has not submitted an accurate connectivity profile and completed the connectivity testing they would have to be rescheduled for a later date anyway. Just because this scenario is possible does not mean that scheduling of all test applicants should be dependent upon a utility determination of readiness which cannot easily be verified.

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<sup>13</sup> For example, in response to several marketers who completed testing and then withdrew from its service territory, KeySpan's tariffs provide for a refundable deposit for EDI testing (KeySpan Gas East Corp. DBA Brooklyn Union of L.I., PSC 1 - Gas, Leaf 156, Revision 5).

The ESCO test request must now be submitted no later than 30 days in advance of the earliest date an ESCO will be ready to test. Accordingly, an ESCO has more than adequate time to provide any documentation of readiness or any other supporting materials a utility may require in the 30 day period but scheduling a test date should not be contingent upon receipt of those materials. Completion of Phase III testing is the most time consuming of the utility requirements and therefore scheduling should not be deferred pending execution of operating or billing services agreements or satisfaction of security requirements.

"As Needed" Testing

The Phase III procedures in TOP Supplement 1 presume that ESCOs would be tested in batch mode (i.e., several ESCOs would test simultaneously) because at the time the procedures were adopted very few of the 65 active ESCOs had been tested. Accordingly, batch testing was considered the most efficient means of completing the required testing in the shortest period of time. In addition, the publication of utility test schedules on their web sites coupled with the requirement to provide DPS Staff with email attestation of successful completion of Phase II or Phase III test completion was initially considered sufficient to enable Staff to monitor compliance with the TOP procedures.<sup>14</sup>

Staff proposes modifications in test scheduling procedures to recognize that testing could now be conducted on an "as needed" basis. The Joint Utilities believe that batch testing is still needed when multiple requests to test are received near in time, but acknowledge that in other

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<sup>14</sup> The attestation requirements of the TOP document have proved to be inadequate to monitor testing activities because they are either not sent at all or not sent on a timely basis.

circumstances it is possible that utilities may offer individual test schedules. Notwithstanding this recognition, the Joint Utilities seek clarification that utilities would retain the discretion to determine test schedules and propose that the language at page 3 of the TOP document be clarified with an additional sentence, as follows: "Alternatively, utilities may establish test schedules for individual test applicants." On the other hand, Fluent Energy believes it is critical to develop a universal "real time" testing requirement across all utilities. It advocates for the removal of existing "batch test" approaches as the "start of numerous improvements that in the long run may create a true standard across utilities, which would be the ultimate means - at least from an EDI perspective - to encourage competition in New York."

#### Discussion

Batch testing may be appropriate in instances when there are multiple concurrent requests. In such circumstances, utilities should not be expected to schedule testing on an individual basis for every new entrant. The alternative language suggested by the utilities will be substituted for the Staff's proposed language in this instance.

#### Resolution of Disputes

The current procedures provide for DPS Staff to "work with the Utilities and [ESCOs/Marketers], as necessary to resolve any test scheduling issues." Staff proposes that it be empowered to direct a resolution of testing complaints rather than merely act as a facilitator because it has not always been successful in effecting a fair resolution. The Joint Utilities oppose the change in procedures for resolving testing disputes claiming the "existing procedures have proven effective in resolving disputes in the majority of cases" and because ESCOs may also rely on the dispute resolution process described in the

Uniform Business Practices (UBP) for resolving testing disputes. Staff disagrees with the characterization that existing procedures for resolving test disputes have proven effective in the majority of cases and therefore there is no need for a change.

Discussion

Staff's proposal is approved as necessary to ensure that all complaints are ultimately resolved. In the modification proposed by Staff, the utility is not precluded from seeking resolution of testing disputes through the expedited UBP procedures, or petitioning for alternative dispute resolution, if it believes that Staff's directed resolution is inequitable or unreasonable.

Monthly Reports

To assist Staff in monitoring ESCO compliance<sup>15</sup> with Phase III testing deadlines, beginning March 18, 2004 all utilities were asked to begin submitting weekly Phase III status reports to the Office of Retail Market Development. Staff relies on data provided in the utilities' Phase III testing reports, now expected to be submitted monthly, to assist in resolving test disputes and to confirm information in an ESCO's Retail Access Application regarding the service territories in which the ESCO intends to participate. Since the beginning of 2006, however, receipt of these reports has been sporadic at best. Staff has had to send frequent reminders and/or special requests to specific utilities.

Staff proposes that the utilities be formally required

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<sup>15</sup> The reports were used initially to monitor ESCOs compliance with the November 2003 UBP requirement, as amended by the February 17, 2004 order, to complete Phase III testing within 60 days of the date that Phase II utility testing was completed.

to submit Phase III testing reports on a monthly basis. The Joint Utilities oppose the requirement for formal monthly testing status reports because they assert such a requirement would be inconsistent with past efforts to reduce regulatory reporting. The Joint Utilities would prefer to maintain the current reporting procedures and work out any enhancements on an informal basis with Staff. While Staff agrees that an informal approach to the exchange of testing information would have been preferable, significant experience has demonstrated that the utilities have not adequately cooperated or complied under the informal approach. Further, the data being submitted currently is not sufficient in all cases to determine utility compliance with the current or proposed timing requirements.

Discussion

Although Staff's preference would be to direct formal reporting at this juncture, we expect Staff to work with the utilities on a short term basis to improve the content and frequency of Phase III testing reports. Staff will convene a meeting of the utility parties within 30 days of the date this order is issued. However, if the quality and frequency of the reporting does not improve within the next six months, we will consider issuing a new notice proposing formal reporting requirements.

CONCLUSION

The standards document listed in the Attachment reflects the approved modifications as discussed herein and will be made available on the Commission's web site coincident with the issuance of this Order.

The Commission orders:

1. The Technical Operating Profile, Supplement 1, Version 1.2 document listed in the Attachment to this order is approved in the manner described in the body of this order.

2. Prior to the date the utility has designated as the start date for testing, the ESCO may be required to demonstrate readiness to commence testing by submission of an accurate connectivity profile, designation of specific ESCO personnel to conduct testing, and in appropriate instances, posting of a deposit. However, utilities may not require the satisfaction of all other Uniform Business Practices (UBP) and utility-specific requirements to provide service in the utility's service territory as a prerequisite to the scheduling and conducting of testing.

3. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING  
Secretary

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

Supplement	Description
SUPPLEMENT A	<ul style="list-style-type: none"><li data-bbox="634 453 1323 764">• Technical Operating Profile For Electronic Data Interchange In New York, Supplement 1, Phase II and III Test Procedures - All Transaction Standards, Connectivity Tests, Test Scenarios Applicable to: TS814E, TS814D, TS814HR, TS867HU, and TS867MU, Version 1.2</li></ul>