

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on July 15, 2010

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Robert E. Curry, Jr.
James L. Larocca

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

ORDER CONCERNING REMOTE CUSTOMER
ACCESS TO ACCOUNT INFORMATION

(Issued and Effective July 19, 2010)

BY THE COMMISSION:

In an Order issued in this case on November 7, 2006 (November 2006 Order),¹ this Commission required distribution utilities to file plans to provide their customers with real-time remote access to the customer's utility account number or Point of Delivery Identification Number (POD ID).² The utilities subsequently filed plans, which we now address.

¹ Case 98-M-1343, In the Matter of Retail Access Business Rules, Order Denying Petition and Making Other Findings (Issued November 7, 2006).

² The following utilities were required to file the described plans: Consolidated Edison Company of New York, Inc. (Con Edison) Central Hudson Gas & Electric Corporation (Central Hudson), KeySpan Energy Delivery of New York and KeySpan Energy Delivery of Long Island (collectively, KeySpan), National Fuel Gas Distribution Corporation (NFG), New York State Electric & Gas Corporation and Rochester Gas & Electric Corporation (NYSEG/RG&E), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), and Orange & Rockland Utilities, Inc. (O&R).

BACKGROUND

In a petition filed August 18, 2005, Accent Energy LLC (Accent), an Energy Services Company (ESCO), requested that the Uniform Business Practices (UBP) be amended to allow ESCOs to obtain customer account numbers from utilities on a real-time basis, provided the ESCO identifies the particular customer and account by information commonly known and easy to access (e.g., name, billing address, and zip code), and that the ESCO has obtained the customer's authorization for the release of such information.³ Accent asserted that ESCOs need this type of access because customers typically do not carry their utility account number with them. Further, Accent argued that a customer's inability to readily provide his or her utility account number constitutes a significant barrier to ESCOs' ability to market to and enroll new customers at places or events where large groups congregate, such as shopping malls and sports arenas. This barrier, Accent maintained, is contrary to the Commission's policy of making the process of switching to an ESCO "as easy as possible for consumers."⁴

In the November 2006 Order we found credible the assertions of Accent, and other parties, that ESCO marketing and enrollment efforts at places where large groups of potential

³ UBP §4.C.1.b provides that distribution utilities must transfer customer information to ESCOs in response to "valid requests for information as established in EDI [electronic data interchange] transaction standards." A valid EDI request must specify the unique "distribution utility customer account number" associated with a particular customer account. Case 98-M-0667, In the Matter of Electronic Data Interchange, Opinion and Order Approving EDI Data Standards and Data Protocols (Issued July 23, 2001), p. 30. Therefore, an ESCO must have access to a customer's specific account number in order to request and obtain account information about, or to enroll, that customer.

⁴ Case 00-M-0504, Statement of Policy on Further Steps Towards Competition in Retail Energy Markets (issued August 25, 2004).

customers pass and congregate are encumbered because customers do not typically have their distribution utility customer account number with them. We also found that promoting such marketing practices is consistent with our policies favoring informed customer choice. However, we denied Accent's petition, stating that Accent had not provided sufficient evidence of a need to allow ESCOs direct access to customers' distribution utility account numbers. The November 2006 Order stated that the problem identified in Accent's petition, customers' inability to readily produce their utility account numbers, could be addressed by giving customers real-time remote access to their account numbers. Customer protections could be maintained by ensuring that such access is secure, by requiring, as a pre-condition to the release of the customer account number, that the requestor provide non-public information known only by, but readily available to, the customer.

The November 2006 Order noted that this approach would ensure continued customer privacy and avoid increased risks of customer confusion or allegations of slamming. Further, this approach would advance our policies of supporting retail competition, increasing customer choice, and facilitating the ease of customer switching. Finally, because the customer, rather than the ESCO, would retrieve the account number, this approach obviates any need to amend the UBP or employ EDI to request (or reply to requests for) distribution utility account numbers.

The November 2006 Order required that each of the utilities submit a plan to provide customers with secure, real-time remote access to their distribution utility account number or POD ID used for enrolling a customer with an ESCO. The filings were to include itemized cost estimates and an implementation timetable with discussion on how the proposed plan would maintain the privacy and security of customer

information. Each of the utilities filed plans in December 2006.

Notice of the utilities' plans was published in the State Register on March 11, 2009 in conformance with the State Administrative Procedures Act (SAPA) §202(1)(a). The comment period expired on April 27, 2009. Comments were received from the National Energy Marketers Association (NEM), NFG, the New York State Consumer Protection Board (CPB), NYSEG/RG&E, and the New York State Energy Marketers Coalition (NYSEMC). O&R filed reply comments on May 6, 2009.⁵

SUMMARY OF UTILITY FILINGS

As required by the November 2006 Order, each of the utilities filed plans to provide their customers with real-time access to utility account numbers. The utility filings are summarized below.

Central Hudson

Central Hudson explained that a customer wishing to obtain his or her account number can currently contact the utility's call center and provide personal information sufficient to prove the caller's identity as the account owner. The personal information could include a social security number (SSN), state driver's license number or other personal information contained in the customer's service application.

In addition to access through a telephone contact with its call center, Central Hudson proposed to provide customers with access to their account numbers through its Integrated Voice Response (IVR) system. Customers would be prompted to enter the first four characters of the last name of the account owner, the last six digits of the SSN and the zip code corresponding to the service address. If no match is found, the

⁵ O&R filed its reply comments after the expiration of the SAPA comment period. In order to ensure a full and complete record for our determination, we shall consider these comments.

customer would be given the option of selecting an immediate transfer to the call center staff for assistance during normal business hours. If this situation occurs outside of normal business hours the customer would be instructed to call during business hours. If a match is found, the customer's account number would be provided by voice recording.

According to Central Hudson, it has the capability of adding this "branch" to its IVR system to provide remote access to account numbers. The incremental costs would be modest, and Central Hudson did not intend to seek rate recovery. At the time of its filing, Central Hudson expected that this IVR system could be available within ninety days of approval of the plan.

Con Edison

At the time Con Edison made its filing, when a customer contacted the Con Edison Call Center, an Automatic Number Identification (ANI)-based system would identify the account associated with the caller's telephone number. In this situation, a caller is prompted to confirm his or her identity. If the ANI-based system is unable to identify the customer, the customer is required to provide confidential information in order to obtain his or her account number.

To provide customers with easier access to their account numbers from remote locations, Con Edison proposed implementation of a dedicated IVR facility for customers seeking to identify their account number. Under this proposal, the customer would call a dedicated toll-free number and obtain his or her account number after inputting his or her SSN or tax identification number (Tax ID number) and zip code. If no match is found, or if the information provided by the customer matches multiple accounts, the customer would be transferred to the Call Center to be assisted by a customer service representative (CSR).

In its 2006 filing, Con Edison projected that the overall system upgrade would cost \$5000. In addition, on-going maintenance costs were estimated to be \$500 annually. Con Edison estimated that, should the proposed IVR facility receive over 1,000 calls per week, the maintenance cost for the dedicated telephone lines and a toll-free number could increase to \$2,500 annually.

KeySpan

When KeySpan made its 2006 filing, it already assigned each customer a unique access code to gain entry to his or her account information via its website. The unique access code appears on the customer bill with instructions on how to register for online account access. Once registered, customers have 24 hour access to the site via the internet, allowing them to obtain their account number and other information. KeySpan continues to offer this service.

In addition to this existing real-time remote access, KeySpan proposed adding a prompt to its IVR system through which customers could obtain their account numbers. As a pre-condition to receiving their account number, customers would input their SSN and zip code. Before releasing the account number, the customer would be required to verify the service address. In the event KeySpan has multiple addresses associated with a customer, the customer would be prompted to select an address and would receive the associated account number. If the application is unable to find an account number that matches the customer information, the customer would be directed to retrieve his or her account number from a bill. As a third option, KeySpan proposed creating an additional web application through which a customer could obtain his or her account number by entering the account holder's SSN and zip code. As with the IVR application, if multiple accounts and addresses are associated with the entered information, the customer would be provided

with a list of the matching addresses. The customer would select the desired address to obtain the associated account number. KeySpan estimates the implementation costs, for both of its service areas, to be \$322,000 for the IVR application and \$114,000 for the new web application.

NFG

Like KeySpan, as of its 2006 filing, NFG already offered customers secure access to their account information online. The customer must set up an online account, which the customer can do by entering his or her account number and service address zip code. The customer also provides an email address to use as a login-ID and creates a password. Once the customer completes this registration process, the customer can access his or her account number through the internet.

NFG explains that consumer information is protected because customers must provide nonpublic information to set-up the account. While NFG acknowledges that the security of its website cannot be guaranteed, it has implemented various controls to protect its web-based systems. NFG does not propose any modifications to the existing system.

National Grid

At the time of the 2006 filing, National Grid provided customers real time access to their account numbers via a toll-free customer service number if the customer provided certain non-public account information to a CSR. In its filing, National Grid proposed upgrading its IVR system to facilitate secure, real-time customer access to account information. The IVR would prompt the customer to enter his or her SSN and zip code. Upon a positive match, a validation of the first four letters of the customer's last name would be required before the IVR system would provide the customer's account number. If multiple matches are found with the same SSN and zip code, the customer would be prompted to enter the telephone number

associated with the account. If multiple accounts are still returned, or if there is no match, the caller would be transferred to National Grid's 24 hour customer service center.

According to National Grid, the proposed application would require modification to its telephone system, IVR system and customer billing system. National Grid estimated the development and implementation costs to be \$17,500.

NYSEG/RG&E

At the time of the filing NYSEG/RG&E provided customers with two options for remotely obtaining POD IDs. Customers could contact their respective utility's call center between 7:00 a.m. and 7:00 p.m., Monday through Friday, to request account information from a customer service representative. Customers could also access their account numbers via the internet, if they had previously set up a login-ID and password. The existing internet account access system, function similarly to the NFG and KeySpan systems described above.

NYSEG/RG&E proposed to enhance customers' web-based access to their account information by creating a web transaction wherein the customer enters his or her name along with the last four digits of his or her SSN. When an exact match is found, the system would return the service address and associated POD ID. If no match is found, a message would be displayed to advise the customer. Unlike the existing web-based system, a pre-registered customer login-ID is not required for the proposed web transaction. At the time of the filing NYSEG/RG&E had SSNs for approximately 50% of their customers.

NYSEG/RG&E noted that while a certain level of customer privacy and security exists with this web-based proposal, it is not failsafe. NYSEG/RG&E urged the Commission to instruct ESCOs to protect the space area and computer hardware when accessing customer information.

NYSEG/RG&E estimated that the proposed web-based application could be designed, tested and implemented within a six week period at a cost of approximately \$4,000 for both companies combined. NYSEG/RG&E proposed to recover the implementation costs through a one-time charge to participating ESCOs. Additional costs would be recovered through fees to ESCOs serving customers as they occur. NYSEG/RG&E also suggested that an explanation about this proposed option be included in its Energylines bill insert, and that the costs for using this communications tool and other related outreach and education activities be borne by the ESCOs.

O&R

When O&R made its 2006 filing, it indicated that customers can obtain account numbers by contacting the call center during normal call center hours. A caller must verify that he or she is the customer of record on the account. To obtain an account number a customer would need to provide personal account information to the CSR, such as SSN or Tax ID number, verifying that the caller is the customer of record. As an added level of security, customers have the ability to place a password on their account. If a CSR cannot verify that the caller is the customer of record, no account information is provided.

O&R proposed to implement a dedicated, toll-free number in conjunction with an IVR application which would be available 24 hours per day, seven days per week. The proposed IVR application would allow a customer to obtain his or her account number by entering the SSN associated with the account. At the time of its filing, O&R had SSNs for 65% of its customer accounts. O&R estimated this proposal could be implemented within 60 days of a Commission Order approving the plan, at a cost of approximately \$5,000. In addition, O&R estimated annual maintenance costs of \$500.

POSITIONS OF THE PARTIES

CPB

CPB explains that since the utilities filed their plans, a new statute addressing SSN confidentiality (SSN Confidentiality Law), enacted as chapter 676 of the Laws of 2006 went into effect.⁶ This law prohibits, among other things: 1) requiring a customer to release his or her SSN over the internet unless the connection is secure or the SSN is encrypted; and, 2) the use of the SSN to access an internet site unless a password, personal identification number (PIN) or other authenticating element is also required to access the site.⁷ CPB states that implicit in the SSN Confidentiality Law is a policy that SSNs require a higher level of protection and that their use must be accompanied by at least one other identifier (password, PIN, etc.), which is non-public in nature. CPB supports the consistent application of this policy not just to the use of SSNs on the internet but also to their use in IVR applications.

CPB urges that the utilities' plans be assessed based on three tests. First, whether the SSN the sole authentication element. Second, if answer to the first test is "no," whether the additional authentication element is non-public in nature (e.g., a PIN). Third, if access is provided through the internet, whether the connection secure or is the SSN encrypted.⁸

CPB argues that the Central Hudson, O&R and NYSEG/RG&E plans should be rejected as these plans rely on the SSN as the

⁶ Act of September 13, 2006, 2006 N.Y. Laws ch. 676 (codified as amended at New York State General Business Law (GBL) §399-dd (2010)). The GBL contains three other distinct provisions numbered §399-dd, each provision was also enacted in 2006. None of these other provisions of the GBL are relevant to the issues discussed in this order.

⁷ CPB Comments, p. 3.

⁸ CPB Comments, p. 4.

sole authentication element. The National Grid, Con Edison and KeySpan plans should also be rejected, according to CPB, because each of these plans uses the customer's zip code, which CPB states is public information, as the second authentication element. CPB asserts that the NFG proposal should also be rejected because it relies on an unspecified non-public identifier which does not provide CPB with sufficient detail to assure that consumer privacy will be maintained. CPB particularly objects to KeySpan's proposed web-based proposal, asserting that it may be in violation of the SSN Confidentiality Law.

CPB also recommends that utilities that currently use individual SSNs for any aspect of their operations ensure that such use is in compliance with both legal requirements and best information privacy practices. Lastly, CPB suggests that ESCOs, the beneficiaries of these changes, should bear any costs associated with the implementation of new remote customer access systems.

NEM

NEM suggests evaluating the utility filings based on four factors: 1) the availability of customer access while at remote locations, such as fairs and shopping malls, which often occurs outside regular business hours; 2) the existence of a sufficient customer population able to access their account numbers; 3) the inclusion of a back-up feature, which would allow customer access through an alternative method; and, 4) the simplicity of the process by which customers can obtain their account numbers.

According to NEM, the access provided for in the utility plans, which includes IVR or web-based systems available at all times, would be available when customers would likely be at places such as fairs and shopping malls. Regarding the existence of a sufficient customer population able to access

their account numbers, NEM argues that NFG's proposal does not satisfy the spirit of the November 2006 Order as only customers who had previously signed up for online account access would have remote access to their account numbers. Further, NEM notes that while NYSEG/RG&E and O&R have 50% and 65% their customers' SSNs, respectively, the remaining utility proposals do not indicate how widespread the compilation of customer SSNs are. NEM states that, as most of the utilities' plans utilize customer SSNs, it should be incumbent upon the utilities to ensure that they have a significant number of SSNs in their system in order to ensure the effectiveness of the proposed customer access programs.

NEM highlights that National Grid, Con Edison and O&R propose systems including a back-up up feature. Specifically, those companies' proposed IVR systems will transfer a caller to customer service for assistance when the account number cannot be obtained via the utilities' proposed IVR processes. NEM recommends that a backup mechanism be provided to facilitate customer access to account information.

According to NEM, with the exception of NFG, the utility plans use an SSN to identify the caller before providing the corresponding customer account number which, in NEM's view, is a reasonable approach. However, several utilities propose requiring additional information, such as a telephone number or zip code, along with the SSN, which NEM deems unnecessary. NEM argues that requiring additional information makes the process unnecessarily complicated. NEM recommends that the additional information be incorporated into the utilities' backup mechanisms in the event that the SSN entered does not correspond with an account in the utility system.

NEM states that the proposed systems are for the benefit of consumers seeking their own information. Accordingly, with respect to cost recovery, NEM advocates that

these incremental costs should be considered as general outreach and education expenses, for which, NEM asserts, this Commission has previously allowed recovery in rates.⁹ Additionally, NEM notes a decision rendered by the New Jersey Board of Public Utilities (Board) where the Board found that it would not be appropriate for ESCOs to pay for costs for a customer account look up process "since customers are presently able to contact the LDCs to obtain their account numbers free of charge and customers are simply authorizing a TPS [third party supplier]... to obtain this information for them..."¹⁰

NFG

NFG continues to support its 2006 proposal because, the Company states, "it strikes the proper balance between protecting customer information and providing ESCOs with reasonable access to that information."¹¹ Noting that federal and state identity theft laws and regulations require financial institutions and creditors, including utility companies, to develop and implement programs to protect consumer information, NFG asserts that its proposal provides customers with access to their accounts while maintaining privacy protections.

NYSEG/RG&E

In their comments, NYSEG/RG&E amended their December 22, 2006 filing. Instead of the initially proposed web-based application that customers would access using their last name and SSN, NYSEG/RG&E now propose that ESCOs directly access customer POD IDs through a secured portion of the NYSEG/RG&E websites by providing the customer's last name and a ten digit telephone number. The system would return all POD IDs associated with the name and phone number, up to a maximum of

⁹ NEM Comments, p. 7.

¹⁰ NEM Comments, p. 8.

¹¹ NFG Comments, p. 2.

100 POD IDs for a single telephone number. If there are greater than 100 POD IDs associated with a telephone number, the customer would have to contact NYSEG or RG&E to get his or her POD ID. The Companies believe that this is an improvement over its initial filing because they have 90 percent of their customers' phone numbers as compared to 50 percent of their customers' SSNs. Further, the Companies expressed concern about using customer SSNs, noting the continuing increase in identity thefts that has been recognized in recent State and Federal legislation. Finally, by using the ESCO secured sites, the added level of security necessary to access the site will better ensure that only ESCOs or their authorized agents are able to access the customers' POD IDs. Additionally, this method of access will provide a traceable trail to assist in slamming investigations.

NYSEG/RG&E estimate that the modified proposal will take seven weeks to implement at a projected cost of \$13,000. NYSEG/RG&E propose to recover this expense through a one-time charge to all ESCOs participating in the NYSEG and/or RG&E retail access programs prior to building this web-based application.

NYSEMC

The utility plans, according to NYSEMC, seem reasonable and have the capability of providing ready access to customer account numbers. NYSEMC believes that the way this access is communicated to customers is also important, stating that the utilities have an opportunity to use the access to information to further educate customers on retail access. NYSEMC noted that while the issue of customer information confidentiality is still a concern of some of the utilities, a number of other states (e.g., Ohio, Pennsylvania, Texas and Connecticut) provide customer information directly to the ESCOs to enable them to market directly to customers. Further,

according to NYSEMC, these other states have not experienced significant levels of complaints.

O&R

In its Reply Comments, O&R states that, consistent with its original filing, it does not oppose implementing an account look up feature that will allow customers to obtain real-time remote access to their account information. However, O&R does oppose requiring the utilities to be financially responsible for funding the costs associated with putting such a program in place. Although O&R's projected costs for implementing and maintaining this program are minimal, i.e., \$5,000 for implementation and \$500 per year for maintenance, O&R reiterates that these are estimates. This service, in O&R's view, is solely a mechanism to enable ESCOs to gain customer account information, is promotional and bears no connection to objective outreach, and therefore falls within the category of costs that must be funded by ESCOs.

DISCUSSION AND CONCLUSION

IVR-based Systems

Central Hudson, Con Edison, National Grid, KeySpan and O&R submitted plans which propose to provide customers with access to their account numbers through modifications to the utilities' existing IVR systems. Each of these utility plans relies primarily on a caller entering his or her SSN (or a portion thereof) before the IVR system returns the associated account number. Most of these proposals require the caller to provide additional information, such as a zip code.

In its comments, CPB raised concerns about the use of customer SSNs. CPB urged that we analyze the utilities' plans according to the three tests CPB developed, in part, based on its reading of the SSN Confidentiality Law. Although the SSN Confidentiality Law does not refer to the use of SSNs in telephonic transactions such as the utilities' proposed IVR

systems,¹² CPB requests that we apply its tests to these proposals as well. Based on its three tests, CPB urges that we reject each of the utilities' IVR proposals.

Although we are unpersuaded by CPB's recommendation that we reject the utilities IVR proposals outright, we too have concerns about the proposed use of customers' SSNs. Since the utilities submitted their respective plans, the issue of properly securing one's SSN and the fear of identity theft have been increasingly important to the New York State and federal governments. As described by the Federal Trade Commission (FTC), "SSNs are described as the 'keys to the kingdom,' because an identity thief with a consumer's SSN (and perhaps other identifying information) may be able to use that information to convince a business that he is who he purports to be, allowing him to open new accounts, access existing accounts, or obtain other benefits in the consumers' name."¹³ Indeed, Social Security Administration and FTC brochures emphasize the need for consumers to be cautious and skeptical when asked to provide an SSN.¹⁴

In evaluating utility plans to provide remote access to account information, we are compelled to consider whether

¹² The SSN Confidentiality Law applies to the use of an SSN as a customer identifier in internet transactions and on certain printed materials.

¹³ Security in Numbers: SSNs and ID Theft, FTC Report, December 2008, p. 2. Available at: <http://www.ftc.gov/os/2008/12/P075414ssnreport.pdf> (accessed on March 29, 2010).

¹⁴ The Social Security Administration publication, "Identity Theft And Your Social Security Number" (August 2009) is available at: <http://www.ssa.gov/pubs/10064.html> (accessed on March 26, 2010). The FTC publication, "DETER: Minimize Your Risk - Deter. Detect. Defend. Avoid ID Theft" is available at: <http://www.ftc.gov/bcp/edu/microsites/idtheft/consumers/deter.html> (accessed on March 26, 2010).

such plans, in providing for consumers to divulge their SSNs in public locations, create or unduly exacerbate the risk that a utility customer's SSN may be revealed, thereby potentially subjecting the utility customer to identity theft. We note that most of the utilities' plans rely on a customer's full SSN, whereas NYSEG/RG&E's original web-based proposal called for the use of the last four digits of a customer's SSN. Additionally, Central Hudson's plan would require that a customer enters only the last six digits of his or her SSN. The use of only a portion of customers' SSNs is a reasonable way to limit the possibility that the use of these proposed IVR systems could lead to an identity theft. Accordingly, when implementing their respective IVR proposals, Con Edison, Central Hudson, O&R and National Grid shall modify their proposals so that a customer is required to provide, at most, the last four digit portion of his or her SSN. We recognize that by not utilizing a full SSN, additional information, e.g., a portion of the customer's last name and/or the billing zip code, as Central Hudson envisions using, will likely be necessary to correctly identify a requestor's account.¹⁵

In recognition of the Social Security Administration and the FTC pronouncements emphasizing that consumers should be cautious and skeptical when asked to provide an SSN, we will also require that the utilities include a prefatory statement in the IVR prompt asking the customer to enter his or her partial SSN. The statement should briefly explain that, if the caller does not want to provide his or her SSN, the customer can

¹⁵ NEM commented that the request for additional information, such as the zip code or last name associated with the utility account unnecessarily complicates the IVR process. However, the requested information is easily remembered by customers and therefore would not pose a barrier to a customer expediently obtaining his or her utility account number.

retrieve his or her utility account number through alternative means, such as by referring to his or her utility bill.

NEM suggested that each utility should include a back up feature providing customers with a secondary method for retrieving their account numbers, should a match not be found initially. NEM specifically pointed to the National Grid, Con Edison and O&R proposals, which would transfer the caller to a CSR if the IVR system does not return an account number. Central Hudson also states that, when its customer service call center is open, the IVR system would allow a customer to be transferred to a CSR in the event the IVR system fails to provide the requested account number. The fact that customers retain the ability to seek their account information by directly contacting their utilities' call center addresses NEM's concern.

Some parties suggested that utilities undertake customer outreach explaining this IVR option. However, since use of these proposed IVR systems requires no prior knowledge or effort on the part of customers, customer outreach is not necessary.

With the exception of the KeySpan proposal, the utility IVR proposals, as modified by this Order, strike a balance between costs, customer protections, ease of access and availability of the system. Accordingly the IVR proposals of Central Hudson, Con Edison, O&R and National Grid are approved, subject to the modifications described in this Order.

KeySpan estimates that its IVR proposal would cost \$322,000 to implement in both of its service areas. KeySpan's cost projection is significantly higher than the cost estimates of any other utility. For comparison, Con Edison estimated that its IVR application would cost \$5000 to implement and Central Hudson stated that it would not seek recovery of the "modest" incremental costs to implement its IVR proposal. We are concerned that KeySpan's estimated implementation costs may be

disproportionate to the benefits to be gained from the proposed IVR upgrade. Therefore, KeySpan's IVR proposal is not approved at this time. KeySpan should reassess the estimated costs of implementing an IVR system consistent with the preceding discussion. Thereafter, KeySpan will be required to submit a report of the results of this reassessment, including detailed support for its estimated implementation costs, to the Secretary within 60 days of the date of this Order.

Web-based Systems

In their respective filings, NFG, KeySpan and NYSEG/RG&E each identified existing web-based applications that allow customers to have real-time remote access to their account information, including account numbers, without the need to provide an SSN in a public forum or through an unverified web or IVR system. Each of these utilities' applications require customers to register for the service using non-public information, including an account number or unique access code printed on the customer's utility bill. During registration, customers select a Login-ID and password. Once registered, customers can access their account information, using only the self-selected Login-ID and password, via the internet. The Login-ID and password are self-selected, satisfying the condition in the November 2006 Order that the real-time remote access to utility account numbers be provided upon submission of non-public information known only by, but readily available to, the customer.¹⁶

NYSEMC, however, expressed its concern that the need to pre-register for these systems limits their effectiveness. NYSEMC's concern is valid. The record in this case does not support the proposition that, at this time, customer use of such systems is prevalent enough to make these systems effective for

¹⁶ November 2006 Order, p. 10.

providing customers, generally, with remote access to their account numbers. At this time, we are disinclined to rely solely on such systems.¹⁷

NYSEG/RG&E initially proposed to create a web-based system, which would utilize an account holder's SSN to identify and provide the associated POD ID. We need not address NYSEG/RG&E's web-based customer access proposal because, in their comments, NYSEG/RG&E amended the plan filed in 2006, replacing the original proposal with a new proposal to give ESCOs direct access to customer POD IDs through a secured portion of the NYSEG/RG&E websites. Regarding this new proposal, the November 2006 Order specifically rejected giving ESCOs direct access to customer's utility account numbers or POD IDs. No compelling information has been provided to support a reversal of the November 2006 Order. Therefore, the NYSEG/RG&E proposal to give ESCOs direct access to customer account numbers is rejected.

NYSEG/RG&E will, however, be required to file a report explaining how each utility could employ its IVR system to provide customers with real-time remote access to their account numbers, consistent with the above discussion. The report should include a detailed estimation of implementation costs. Should NYSEG/RG&E choose, their submission may also include proposals for alternatives to an IVR-based system, but such alternatives must be consistent with the discussion in this Order.

NFG does not currently employ an IVR system, and this Commission will not require NFG to institute an IVR system

¹⁷ We note that web-based systems allowing customers, not just of utilities, but also other entities (e.g., financial institutions) to access account information and pay bills are increasingly prevalent. As the use of such systems has become more common, it appears that many people are increasingly comfortable with using these systems.

solely for this purpose. NFG should, however, submit a proposal identifying alternative means of providing customers with real-time remote access to their account numbers, consistent with the discussion in this Order.¹⁸

KeySpan also proposed to create a new web-based system, which would return the associated account number(s) when an account holder submitted his or her SSN and zip code. In its comments, CPB raised concerns about the use of customer SSNs in such a web-based system. As explained above, we share CPB's concern about this use of utility customers' SSNs. While the SSN Confidentiality Law does not refer to telephonic transactions, it specifically identifies internet transactions using SSNs as requiring enhanced security. Given the heightened concerns about the potential for unintended divulgence or theft of SSNs in internet transactions, we are reluctant to approve such a system when not strictly necessary. We are approving IVR systems for other utilities, and KeySpan has proposed an IVR system as well. We are not approving KeySpan's IVR system at this time, due to the relatively high implementation cost of its proposal when compared with the estimated costs of other utilities' similar systems. However, we look forward to the outcome of KeySpan's reassessment of the implementation costs of its IVR proposal. Since a KeySpan IVR proposal, if it were approved in the future, would make KeySpan's web-based proposal duplicative, we cannot approve KeySpan's web-based proposal at this time.

Cost Recovery

NEM and NYSEMC recommend that the costs associated with the implementation of the utilities' plans be absorbed by ratepayers as general consumer and education outreach. In

¹⁸ Should NYSEG/RG&E or NFG choose to provide additional support for relying solely on their existing web-based systems, we will consider it.

contrast, KeySpan, NFG, NYSEG/RG&E, O&R, and CPB, noting the cost recovery policy established in Case 07-M-0458, Order Determining the Future of Retail Access, argue that ESCOs should bear the costs associated with providing customers with remote access to their utility account numbers, as ESCOs are the primary beneficiaries of the proposed systems.

In our October 27, 2008 Order Determining the Future of Retail Access, we decided that as the competitive energy market matured, ratepayers should no longer sustain incremental promotional costs for a program unless there is a direct ratepayer benefit. Additionally, we concluded that utilities could implement new retail access programs conditioned on ESCO funding of those programs. The expansion of utility IVR systems approved in this Order is explicitly for the benefit of the ESCOs choosing to market to customers in public locations. Consistent with the Order Determining the Future of Retail Access, ESCOs will be responsible for the costs associated with the new IVR mechanisms.

Central Hudson stated that it does not anticipate incremental cost recovery. However, we require modifications to its proposal and therefore will allow Central Hudson to reconsider its need to recover any costs associated with its proposal as modified. Con Edison, National Grid and O&R project one-time costs to achieve system upgrades. Con Edison and O&R also project de minimis ongoing maintenance costs. Central Hudson, Con Edison, National Grid and O&R can recover the costs of these upgrades from the ESCOs actively marketing to customers in each utility's respective service territory. Should they seek to recover any costs, Central Hudson, Con Edison, National Grid and O&R will consult with those ESCOs to determine how to recover these costs prior to implementing their respective plans. Central Hudson, Con Edison, National Grid and O&R will submit to the Secretary, within 60 days of the date of this

Order, a report explaining how the costs of their respective programs, if any, will be recovered from ESCOs and providing an implementation time table. If, after consulting with the ESCOs in their respective service territories, Central Hudson, Con Edison, National Grid or O&R cannot devise a workable recovery mechanism, or if the ESCOs determine that the IVR upgrades are not necessary, that utility will report such outcomes, with an explanation, to the Secretary, within 60 days of the date of this Order.

The Commission orders:

1. The plans to provide customers with remote real-time access to utility account numbers of Central Hudson Gas and Electric Corporation (Central Hudson), Consolidated Edison Company of New York, Inc. (Con Edison), Niagara Mohawk Power Company, d/b/a National Grid (National Grid) and Orange & Rockland Utilities, Inc. (O&R), as discussed and modified in the body of this Order, are approved.

2. Before implementing their respective approved plans, Central Hudson, Con Edison, National Grid and O&R are directed to consult with the ESCOs actively marketing in the utilities' respective service territories, to determine how to recover the costs of the approved plans from those ESCOs. Each of the utilities shall submit to the Secretary, within 60 days of the date of this Order, either a report stating how the costs will be recovered and providing a time table for implementation, or a report explaining why, after consulting with the ESCOs, the utility and the ESCOs cannot devise a workable cost recovery mechanism or stating that the ESCOs determined that the approved plan is not necessary.

3. KeySpan Energy Delivery of New York and KeySpan Energy Delivery of Long Island shall submit to the Secretary, within 60 days of the date of this Order, a report detailing

their reassessment of the estimated costs of providing customers with real-time remote access through an IVR system consistent with the discussion in the body of this Order. This report must contain detailed support for the estimated implementation costs.

4. National Fuel Gas Distribution Corporation, New York State Electric and Gas Company and Rochester Gas and Electric Corporation shall submit to the Secretary, within 60 days of the date of this Order, plans to provide customers with real-time remote access through an IVR system or other mechanism, consistent with the discussion in the body of this Order, and provide detailed estimates of the implementation costs for such plans.

5. The Secretary may, at her sole discretion, extend the deadlines set forth in this Order.

6. This proceeding is continued.

By the Commission,

JACLYN A. BRILLING
Secretary