



STATE OF NEW JERSEY
Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

I/M/O The Electric Discount and)
Energy Competition Act of 1999-)
Internet Enrollment Program)

ENERGY

ORDER

Docket Nos. EX94120585Y et. al.
and GX99030121 et. al.

(Service List Attached)

BY THE BOARD:

On July 20, 2000, the Board approved a Pilot Internet Enrollment Program (Pilot Program) to commence on September 1, 2000. This Pilot Program would enable customers to enroll with licensed electric or gas suppliers through a supplier's Internet site, but provided for a 10% limit on customer enrollments through the Internet. At the same time, the Board indicated that it was reviewing the federal "Electronic Signatures in Global and National Commerce Act" (PL106-229), which becomes effective on October 1, 2000, and would modify the Pilot Program as needed to comply with the new federal requirements.

By way of background, Section 37 of the Electric Discount and Energy Competition Act ("the Act") provides that competitive retail electric and gas suppliers shall not cause an unauthorized change in a customer's supplier, otherwise known as "slamming," and deems as unauthorized any change in supplier where the customer has not "affirmatively and voluntarily" authorized such change and the supplier has not received customer approval either through a written signature or such other forms of verification as approved by the Board, in consultation with the Division of Consumer Affairs (N.J.S.A. 48:3-86). Until the Board authorizes an alternative form of verification, a so-called "wet signature" by a customer on a contract is required in order for a supplier to be authorized to submit a change order on behalf of that customer. The driving motivation behind the adoption of the wet signature requirement was and is the Board's desire to prevent unauthorized change orders, as has occurred in the telecommunications industry. Accordingly, the Board has taken the approach that the implementation of alternative enrollment procedures other than the wet signature should not compromise consumer protection.

Over the past several months, Board Staff had a number of discussions with licensed suppliers, gas and electric utilities, the Ratepayer Advocate and the Division of Consumer Affairs and identified other enrollment methods that the parties believed were at least as secure as a wet signature. The Board reviewed Staff's recommendations and reached the conclusion that it would consider a trial program permitting customer enrollment through the Internet. If successful, the Board believed that this additional enrollment method would facilitate customer choice and increase the number of active suppliers from which customers might choose, while also maintaining the strict Board approach to prevent customers from being slammed.

After reviewing the alternatives in this context, the Board believes that Internet enrollment would meet or exceed the protections provided by wet signature enrollment for the following reasons:

- A. enrollment through the Internet requires that a customer actively choose to explore customer choice by logging-on to a supplier's website.
- B. since the customer would be choosing the most convenient time to explore customer choice, it is more likely they would take the time to thoroughly review and understand the terms and conditions of any prospective contract.
- C. since the customer would not be subject to sales pressure, the customer would be more likely to explore a number of alternate websites and offers.
- D. Internet enrollment provides a traceable record.
- E. it is less likely that a customer account number could be obtained through the Internet.
- F. Internet information can be provided in foreign languages.

The Board believes that use of alternatives to the wet signature process would also enhance market development. A number of sources indicate that the wet signature process is 5-6 times more expensive for suppliers than Internet enrollment. The Board has become increasingly concerned that the current requirements may be creating a barrier to market entry by suppliers who would most likely concentrate on the residential market. Moreover, lack of participation in the State by some of the larger residential marketers could limit the amount of industry-driven marketing and education directed at the residential consumer, which might otherwise supplement the BPU-sponsored consumer education program currently being implemented throughout the State. The Board believes that an active residential market is an important aspect of retail choice and consumer education programs. In short, a massive outreach and education program could actually be counterproductive if consumers were educated on retail choice, only to discover that there were few suppliers offering products.

A number of electric power suppliers active in the Pennsylvania residential market had indicated that their plans for participation in the residential market in New Jersey were on hold or substantially scaled back. While the residential marketers cited a

number of reasons related to the Board's various standards and requirements, the most common reason given for not being more active in the New Jersey residential market was the wet signature requirement. Suppliers claimed that this requirement added significant cost, as well as increased time and complexity, to the enrollment process.


For the foregoing reasons, the Board previously approved the Pilot Program. However, as a result of the Board's review of the new federal law, the Board FINDS that the 10% limit on customer enrollments should be eliminated from the Pilot Program. The Board believes that this modification will not affect the previously enunciated benefits of "facilitating customer choice and increasing the number of active suppliers from which customers might choose, while also maintaining a strict Board approach to prevent consumer slamming". The modified Pilot Program will also comply with all aspects of the Board's Consumer Protection Standards.

Therefore, the Board ORDERS the implementation of an Internet Enrollment Program on September 1, 2000, as described in Attachment A, version 8, dated August 16, 2000. This Order incorporates all other conditions of our Order dated August 17, 2000, including a Staff review by June 1, 2001.

DATED: September 12, 2000

BOARD OF PUBLIC UTILITIES
BY:

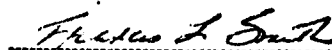

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ATTEST: Frances L. Smith
FRANCES L. SMITH
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities


Frances L. Smith, Esq.
Secretary

Internet Enrollment Program

Applicable to – all licensed Natural Gas and Electric Suppliers, and registered Energy Agents, Energy Consultants, and Private Aggregators.

Commencement – September 1, 2000.

Review Period – Board Staff will review the program after 6 months of operation and make recommendations for modifications to the Program by June 1, 2001.

Licensed Supplier Conditions –

- 1) The means of all electronic enrollment, renewal, re-negotiation and cancellation information transfer between the customer and Supplier must be by an encrypted transaction, using Secure Socket Layer or a similar encryption standard to ensure privacy of customer information.
- 2) Any electronic agreement containing a Supplier's terms and conditions shall be identified by a version number in order to ensure the ability to verify the particular agreement to which the customer assents.
- 3) The pages of the Supplier's Internet site relating to the sale of electricity or natural gas in New Jersey and the information contained therein would be considered marketing materials and thereby be fully subject to the Board's marketing standards as set forth in N.J.A.C. 14: 4-3.4 and the Board's Interim Environmental Disclosure Standards.
- 4) The supplier's Internet site at which the customer enrollment authorization form is maintained would have to contain the full terms and conditions of the contract, consistent with the Board's current contract standards set forth in N.J.A.C. 14:4-3.6. During the Internet enrollment process, the customer shall be required to pass through a screen that contains the terms and conditions. The customer shall be directed to read the terms and conditions.
- 5) The Internet enrollment procedure shall prompt the customer to print or save the terms and conditions to which the customer assents.
- 6) The Supplier's Internet site must contain the environmental disclosure labels of the electricity product(s) offered to the customer, consistent with the requirements set forth in the Interim Environmental Disclosure Standards (and its successor). During the Internet enrollment process, the customer shall be required to pass through a screen that either contains the environmental disclosure information or prominently displays a link to a screen containing that information.
- 7) The Internet enrollment procedure shall require the customer to include, at a minimum, his/her name, service address, e-mail address, utility account number and meter number, where required by specific utilities to complete enrollment, as required by

the BPU, for switch validation to effectuate a sign-up. In addition, the Internet enrollment procedure shall require the customer to indicate that he/she has the authority to change electric suppliers for the account listed; that he/she has read, understands and agrees to the terms and conditions of the contract; and an explicit statement that he/she is voluntarily authorizing a switch in suppliers. The Supplier will retain such acceptance by the customer, in a retrievable format.

8) The Supplier must provide a mechanism by which the customer's acceptance of the terms and conditions is recorded by time and date.

9) The customer must receive a separate electronic message from the supplier acknowledging receipt of the enrollment.

10) In addition to any other BPU requirements, the Supplier shall provide to a customer enrolled via the Internet, an Internet means and/or an e-mail address for the customer to cancel the agreement, consistent with the terms of the agreement. If the agreement is canceled, the Supplier will provide the customer with a cancellation number.

11) In addition to any other BPU requirements, the Supplier shall comply with the provisions of the "Electronic Signatures in Global and National Commerce Act", (PL106-229) as a condition of retaining contracts and records electronically, including, but not limited to, the use of a conspicuous and visually separate consent obtained from the consumer, allowing the contract to be kept and made available in electronic form, a separate statement as to the hardware and software requirements for access to and retention of electronic records and an acknowledgement from the consumer that he/she has an affirmative obligation to provide the Supplier with any change in e-mail address or his/her withdrawal of consent for the electronic retention of contracts.

12) Upon request by the customer, the Supplier shall make available to the customer, throughout the duration of the agreement, a copy of the terms and conditions, including environmental disclosure label, of the agreement version number to which the customer assents. The Supplier must provide to the customer a toll-free telephone number, Internet means, or an electronic mail (e-mail) address for the customer to request this information throughout the duration of the agreement.

Reporting – Beginning October 10, 2000 (for data through the previous month), licensed gas and electric power suppliers will be required to report monthly, for each gas and electric service territory in which they are marketing, the cumulative number of customers switched as a result of Internet enrollments. Marketers without Internet enrollments do not have to file a report. All supplier specific information will be considered proprietary and kept confidential by the Board and its Staff. The Board and its Staff may release aggregate market data. With the concurrence of Board Staff and the Enrollment Working Group, reporting requirements may be modified to provide additional meaningful data.

Reports should be filed with the Secretary of the Board, with a copy to Peter Yochum, Chief, Planning & Research.

Energy Agents, Energy Consultants and Private Aggregators – The Internet may be used to obtain authorization for the release of customer usage data in the same manner and with the same requirements as those currently existing for written authorization. For

pre-enrollment release of customer data via Internet authorization, the Board will narrowly interpret its requirement that customers knowingly authorize release of their information.

Furthermore, in instances where the Energy Agent, Energy Consultant or Private Aggregator is acting on the behalf of a customer or customer group to effectuate enrollment with a Supplier, the Energy Agent, Energy Consultant or Private Aggregator will be responsible to the customer or customer group, and the Board, for Conditions (1), (2) and (4) - (13) above.

Changes – Modifications may be made from time to time, as the Board deems necessary.

Note: Consistent with currently-approved procedures in N.J.A.C. 14: 4-1.3(d), a supplier would still be required to retain records of the customer authorization, in this case the electronic enrollment submittal, for a period of at least three years and, in the event of a dispute, the supplier would still be required to produce the customer switch authorization within 3 business days of a request by the customer or the Board.

Consistent with currently-approved procedures in N.J.A.C. 14: 4-1.5, the utility would still be required to provide the customer, upon request, confirmation of the EDI change order from the supplier (applicable after EDI is implemented).

Consistent with currently-approved procedures, adopted by Board Order pursuant to N.J.A.C. 14:4-1.3 (c) and N.J.A.C. 14:4-1.5(b), the requested switch would still be subject to the separate 14 day "negative verification" process initiated by mail by the utility.