

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b>
(1) Agency  Pennsylvania Public Utility Commission		RECEIVED 2001 MAY -3 AM 11:47
(2) I.D. Number (Governor's Office Use)  L-00000150/57-217		REVIEW COMMISSION  IRRC Number: 2125
(3) Short Title  Final Rulemaking Order regarding licensing requirements for Natural Gas Suppliers.		
(4) PA Code Cite  52 Pa. Code, Chapter 62	(5) Agency Contacts & Telephone Numbers  Primary Contact: Patricia Krise Burket (717) 787-3463  Secondary Contact: Robert Bennett (717) 787-5553	
(6) Type of Rulemaking (check one)  <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language.  <p>The regulation affects natural gas suppliers. The regulation describes the forms, data and procedures involved in obtaining a license to become a natural gas supplier in the Commonwealth.</p> <p>On June 22, 1999, Governor Thomas J. Ridge signed into law the Natural Gas Choice and Competition Act (Act), effective July 1, 1999. The purpose of the Act is to permit customers their choice of natural gas suppliers while maintaining reliable and safe gas service.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  66 Pa. C.S. §2201-§2212		

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

See response to No. 8 and 9 above.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The rulemaking is in response to the Natural Gas Choice and Competition Act which became effective on July 1, 1999.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The licensing of natural gas suppliers is to insure both gas supply reliability, and consumer protection.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All natural gas customers receiving service at retail could effectively benefit from this rulemaking.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

N/A

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Compliance with this regulation will be required from all entities that desire to sell natural gas and natural gas services to customers in Pennsylvania.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Pennsylvania Gas and Oil Association, the Office of Consumer Advocate, Pennsylvania Independent Oil and Gas Association, The Independent Regulatory Review Commission, and various natural gas suppliers have provided input to date.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Compliance with this regulation will impose no added costs on the regulated community. Any savings to the regulated community are not specifically quantifiable.

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

N/A

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

N/A

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

N/A

### Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There were no other alternatives considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

None

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Pennsylvania's regulations in this area compare favorably with those of other states. Pennsylvania will not be put at a competitive disadvantage with the implementation of this regulation, while, at the same time, continuing to protect the interests of state's gas ratepayers.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

Yes. Natural gas suppliers will need to comply with Section 62.110, Annual reporting requirements. The annual reports will contain total annual amount of gross receipts and total volume of natural gas sold.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The regulation takes into consideration the special circumstances of non-profit associations and neighborhood groups.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will become effective upon publication as a final rulemaking in the Pennsylvania Bulletin. No permits, licenses or other approvals must be obtained.

(31) Provide the schedule for continual review of the regulation.

The Public Utility Commission will monitor the effectiveness of this regulation on an ongoing basis, or as various parties make their concerns known.



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LEGISLATIVE REFERENCE BUREAU  
REVIEW COMMISSION



# 2125

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

\_\_\_\_\_  
DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00000150/57-217

DATE OF ADOPTION April 19, 2001

BY James J. McNulty  
James J. McNulty

TITLE ( SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY Bohdan R. Pankiw  
Bohdan R. Pankiw  
Chief Counsel

4-19-01  
DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00000150/57-217  
Final Rulemaking  
Licensing Requirements for Natural  
Gas suppliers  
52 Pa. Code, Chapter 62

The Pennsylvania Public Utility Commission on April 19, 2001, adopted a final rulemaking order establishing licensing requirements for natural gas suppliers. The contact persons are Robert Bennett, Bureau of Fixed Utility Services, 787-5553 and Patricia Krise Burket, Law Bureau, 787-3464.

**EXECUTIVE SUMMARY**  
L-00000150/57-217  
Final Regulations Regarding  
Licensing Requirements for Natural  
Gas Suppliers  
52 Pa. Code Chapter 62

On June 22, 1999, Governor Thomas J. Ridge signed into law the Natural Gas Choice and Competition Act, effective July 1, 1999, 66 Pa. C.S. §2201-§2212 (Act). Pursuant to the Act, beginning on November 1, 1999, retail customers have had the ability to choose their natural gas supplier. Previously, consumers procured their natural gas supply requirements as a package from the jurisdictional public utility. The package, mentioned above, included what are now the basic components of competitive natural gas supply service, commodity, capacity and storage, balancing and aggregation services of the natural gas utility.

On July 15, 1999, the Commission issued a Final Order which adopted interim licensing procedures and a license application. These interim licensing procedures were to be temporary in nature, and would be replaced by regulations. As the first step in promulgating these regulations, on April 13, 2000, the Commission adopted a proposed rulemaking order establishing licensing requirements for natural gas suppliers. Comments regarding the proposed licensing regulations were filed. The Commission amended the regulations accordingly, and has put forth the Final Rulemaking.

The contact persons are Patricia Krise Burket, Law Bureau, (717) 787-3464, and Robert Bennett, Fixed Utility Services, (717) 787-5553.

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA. 17105-3265**

Public Meeting held April 19, 2001

Commissioners Present:

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
Nora Mead Brownell  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick

Re: Licensing Requirements for Natural  
Gas Suppliers;  
52 Pa. Code, Chapter 62

Docket Number: L-00000150

**FINAL RULEMAKING ORDER**

On June 22, 1999, Governor Thomas J. Ridge signed into law the Natural Gas Choice and Competition Act, effective July 1, 1999, 66 Pa. C.S. §2201-§2212 (Act). Pursuant to the Act, beginning on November 1, 1999, retail customers have had the ability to choose their natural gas supplier.

Section 2208(a) of the Act requires that no entity engage in the business of a natural gas supplier unless it holds a license issued by the Commission. 66 Pa. C.S. § 2208(a). A natural gas supplier is defined as:

[a]n entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company. The term includes a natural gas distribution company that provides natural gas supply outside its certificated service territories. The term includes a municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply

services to retail customers located outside of its corporate or municipal limits, as applicable, other than:

(i) as provided prior to the effective date of this chapter, pursuant to a certificate of public convenience if required under this title;

(ii) total natural gas supply services in de minimis amounts;

(iii) natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided; or

(iv) natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law independent of this chapter.

The term excludes an entity to the extent that it provides free gas to end-users under the terms of an oil or gas lease. Notwithstanding any other provision of this title, a natural gas supplier that is not a natural gas distribution company is not a public utility as defined in section 102 (relating to definitions) to the extent that the natural gas supplier is utilizing the jurisdictional distribution facilities of a natural gas distribution company or is providing other services authorized by the Commission.

66 Pa. C.S. §2202.

As used in the above definition of a natural gas supplier, the term natural gas supply services includes (i) the sale or arrangement of the sale of natural gas to retail customers; and (ii) services that may be unbundled by the Commission under section 2203(3) of the Act (relating to standards for restructuring of the natural gas utility industry). Natural gas supply service does not include distribution service.

66 Pa. C.S. § 2202.

On July 15, 1999, the Commission issued a Final Order that adopted interim licensing procedures and a license application for natural gas suppliers (NGSs). These interim licensing procedures were temporary in nature, and would be replaced by regulations.

On April 13, 2000, the Commission adopted an order in which it revised its interim licensing procedures and redrafted them as proposed regulations. This proposed rulemaking order was published for comment in the Pennsylvania Bulletin on June 17, 2000. 30 Pa. B. 3073.

Comments regarding the proposed licensing regulations were filed by the Office of Consumer Advocate (OCA), the Pennsylvania Gas and Oil Association (PGOA), Pennsylvania Independent Oil and Gas Association (IOGA), Amerada Hess Corporation and TXU Energy Services (collectively Hess), National Energy Marketers Association (NEM) and UGI Energy Services d/b/a GASMARK (GASMARK). The Independent Regulatory Review Commission (IRRC) also submitted comments. Letters in support of various commenters were submitted by T.W. Phillips Energy and Open Flow Gas Supply Corporation. On February 6, 2001, Kevin J. Moody, Esq. submitted late-filed comments in the form of a White Paper entitled "Pennsylvania Public Utility Commission Assessments in a Deregulated Energy Industry."

We thank the commentators for their input and will address the comments in relation to the applicable regulation.

## **I. Section 62.101. Definitions.**

This section provides a list of definitions relevant to this subchapter.

### ***“Marketing Services Consultant” and “Nontraditional Marketer”***

In regard to the definition of “Marketing Services Consultant” and “Nontraditional Marketer,” IRRC notes that both definitions include commercial entities. IRRC comments that we should clarify the definitions to account for any distinctions between these two terms.

OCA in its comments supports the Commission’s determination to exempt non-traditional marketers and marketing services consultants from licensing requirements.

### **Resolution**

“Marketing services consultants” can be distinguished from “non-traditional marketers” in that non-traditional marketers are business, civic and social community-based organizations whose main activity is not the sale of natural gas supply services. They are not commercial entities as are “marketing services consultants” that provide support services such as telemarketing and direct mail service, to licensed NGSs. For clarity, we will eliminate the term “commercial entity” from the definition of “non-traditional marketer” to further distinguish the two groups.

We will also amend the definition of “marketing services consultants” to include those commercial entities that act as energy consultants for consumers. The rationale for this addition is discussed in the section 62.102 “Scope of Licensing.”

***Natural Gas Distribution Company; Natural Gas Supply Services; and Retail Gas Customer***

IRRC comments that the definitions of these terms in the regulation differ from the definitions of the same terms in the Natural Gas Choice and Competition Act (Act) (66 Pa. C.S. § 2202). IRRC recommends that the definitions of these terms in the final-form regulation should conform to the statutory definitions or reference the Act.

**Resolution**

The Commission agrees with IRRC’s comments that the definitions should be consistent with those provided in the Act. Thus, we will revise those definitions by reference to the definitions in the Act.

***NGS – Natural Gas Supplier***

IRRC comments that the definition of this term in the proposed regulation differs from the definition of the same term in the Act. Specifically, the definition in the regulation does not include the entire last paragraph of the Act’s definition.

In its comments POGAM argues that the Commission does not have the authority to regulate natural gas suppliers as public utilities, and suggests the addition of a sentence that states that a natural gas supplier is not a public utility.

## **Resolution**

In response to IRRC's comments, we will amend the definition of "natural gas supplier" by referencing the definition in the Act. We believe by doing so, we have satisfied the matter raised by POGAM in its comments.

### **II. Section 62.102. Scope of licensure.**

This section identifies the entities that need to be licensed by the Commission. Subsections (d) and (e) exempt nontraditional marketers and marketing services consultants from the licensure requirement. The Act defines a "natural gas supplier," in part, as an entity that "provides natural gas supply services to retail customers." "Natural gas supply services" are defined in the Act to include "the sale or arrangement of the sale of natural gas to retail customers."

IRRC comments that it appears that both nontraditional marketers and marketing services consultants "arrange the sale of natural gas" between the NGS and the customer and would seem to fall within the definition. IRRC requests that the Commission explain its statutory authority for the exemptions in Subsections (d) and (e).

NEM suggests that the Commission strike this section. It urges the Commission to regulate with a light-hand and expresses concern that the reporting requirements involving a supplier's relationship with non-traditional marketers



would reveal proprietary information. It also states that the added costs of reporting requirements will increase the cost of energy to consumers.

GASMARK opposes the exemption of nontraditional marketers and consultants. GASMARK states that the typical non-traditional marketer -- community groups, buyers cooperatives and trade associations -- derive profit from decision-making consumers in the same way as “traditional” marketers do. GASMARK also claims that the exemption of non-traditional marketers and consultants from licensing discriminates against those who must be licensed and will deter marketer participation in customer choice. GASMARK concludes that all service providers working with gas consumers should be subject to the same regulatory requirements.

Hess states that the Commission has no authority over non-traditional natural gas marketers and that no other marketing or sales relationship is required to be revealed to the Commission. Hess sees no reason for imposing these reporting requirements on this unique approach to the market. Hess claims that there is sufficient protection for consumers through the NGDC’s requirements for supplier financial fitness and other operating requirements in the supplier tariff. Hess suggests striking Subsections (d) and (e).

## Resolution

Initially we note that as the agency responsible for implementing and enforcing the Public Utility Code and the Act, we are afforded great deference by the courts in our interpretation of the law. When a statute is interpreted by the agency charged with the responsibility for its administration, such interpretation shall be accorded great weight and shall not be overturned unless such construction is "clearly erroneous." Cherry v. Pennsylvania Higher Education Assistance Agency, 620 A. 2d 687, 691 (Pa. Cmwlth. 1993); Hawkins v. Pennsylvania Housing Finance Agency, 595 A. 2d 712 (Pa. Cmwlth. 1991). This is particularly true when the interpretation involves construction of a statutory mandate in a new regulatory environment. Barasch v. Pennsylvania Public Utility Commission, 521 A. 2d 482 (Pa. Cmwlth. 1987).

Pursuant to our authority to interpret our enabling legislation, the Commission is authorized to interpret the definitions of "natural gas supplier" and "natural gas supply services" that are referenced in the definition for "natural gas supplier." Generally, under the Act, a natural gas supplier is an entity engaged in the provision at retail of natural gas supply services. Natural gas supply services are defined in general as "the sale or the arrangement of the sale of natural gas to retail consumers." In interpreting "natural gas supply services," it is not clearly erroneous for us to distinguish certain activities that would fall within that definition from those activities that would fall outside of that definition. Based on

an entity's activities, it is not clearly erroneous for this Commission to identify entities who are not engaged in providing natural gas supply services to retail customers, and to exempt those entities from licensing requirements.

In this instance, the Commission defined for exemption from the licensing requirement at Section 2208, the marketing services consultant, entities that are engaged in providing marketing and sales support services to licensed NGSs under a contract. Marketing service consultants would include commercial businesses involved in telemarketing, direct mail service, or information dissemination through auction-type or information only websites and electronic newsletters. Based on their activities, the marketing services consultants are indistinguishable from the NGS's own employees, who would not be required to be individually licensed under the Act. Accordingly, it is not clearly erroneous for us to identify this group as falling outside the definition of "Natural Gas Supplier."

Non-traditional marketers such as fraternal organizations, unions, civic organizations, or governmental organizations may provide endorsements of an NGS's service to its membership or constituency. In these types of affiliations, the sole role of the non-traditional marketer is to make the endorsement that its members are free to accept or reject on its merits. If the member decides to accept the service offered, the transaction is between the contracting member and the licensed NGS. The non-traditional marketer is not involved in the financial transaction between the licensed supplier and the customer. Under this scenario,

the non-traditional marketer is not engaged in providing natural gas supply services to retail customers.

Additionally, as the competitive energy marketplace has developed over the previous four years, the Commission staff has received a number of requests to exempt from licensing those entities who act, not on behalf of licensees, but on behalf of retail customers as energy consultants. These energy consultants gather and evaluate information about various energy supply offerings and then make recommendations to the consumer regarding the best offer available. These consultants are not generally involved in the actual transaction for the gas supply services in that they are not responsible for paying the producer, the supplier or the NGDC for costs related to gas supply service and they are not responsible for the procurement or the scheduling for transport of natural gas supplies.

Based on their activities, it is our interpretation that energy consultants are not engaged in the sale or arranging the sale of natural gas supply services to retail consumers. Thus, they would fall outside the definition of natural gas supplier at Section 2202. We believe that our interpretation on this point is not clearly erroneous, and that the exemption from licensing of these energy consultants would not be detrimental to the public interest because consumers would be transacting business through a licensed supplier. Accordingly, we will revise our definition of "Marketing Services Consultant" to include those entities who act as energy advisors to consumers.

The Commission has considered the comments regarding the filing of agreements between suppliers and non-traditional marketers and marketing services consultants. Our major concern is customer confusion in the situation where a customer deals with an agent of the licensee and not an employee of the licensee. Because the licensed supplier is responsible for any violations of law committed by its agent, our purpose in requiring that these agreements be submitted is to identify those entities that had partnered with licensed suppliers to provide marketing or other sales support services. The Commission believed that this information will assist the Commission and its staff in answering consumers' questions and resolving customer complaints.

Upon consideration of the comments, however, we will revise the requirement. In light of the purpose to be achieved, it appears that it is sufficient that a licensed supplier disclose the names and addresses of nontraditional marketers and marketing services consultants with whom it has arranged for service. Thus, we will require the licensee<sup>1</sup> to make this disclosure as part of the annual reporting requirements at Section 62.111.

We have revised the regulation accordingly.

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<sup>1</sup> We note because the customer has himself selected the energy adviser, there is a personal relationship between the two so that little or no possibility of customer confusion would exist. For this reason and the fact that we have determined that they are not to be regulated as natural gas suppliers, the annual reporting requirement is not applicable to the energy consultant.

### **III. Section 62.103. Application process.**

This section outlines the process an applicant must follow in order to apply for a license.

IRRC comments that Subsection (c) requires that copies of completed applications, with supporting documentation, be served upon five specified state regulators and each NGDC in whose service territory the applicant intends to provide natural gas supply services. However, Subsection (e) provides that an applicant may designate those items, in the application, that it believes are confidential and privileged. IRRC inquires as to whether the confidentiality provisions apply to copies provided under Subsection (c). If the confidentiality provision applies, IRRC suggests the addition of an introductory qualifying clause to Subsection (c) that makes the disclosure of information subject to the limitations of Subsection (e).

IRRC also recommends that the reference to "...each NGDC in whose service territory the applicant intends to provide natural gas supply services" be made a new Paragraph (6) under Subsection (c).

#### **Resolution**

We will accept IRRC's suggestions for revision of this section and clarify that the copies provided to OCA, OSBA, Office of Attorney General Bureau of Consumer Protection, the Department of Revenue and relevant NGDCs will be subject to applicant requests for confidentiality under Section (e).

We will also accept IRRC's suggestion to separate the text referencing "each Natural Gas Distribution Company" in a new subparagraph, numbered 5.

This change is necessitated by our revision that consolidates the Office of the Attorney General and its bureau -- the Bureau of Consumer Protection -- into one item in subparagraph, numbered 3. This revision was necessitated by an error introduced in editing the Commission's order for publication.

#### **IV. Section 62.104. Application form.**

This section describes the information an applicant must supply in order for the Commission to evaluate the applicant's financial and technical fitness to render service in the Commonwealth.

IRRC comments that Subsection (a)(6) requires an applicant for a license to provide financial information that is "sufficient to demonstrate financial fitness." Additionally, the regulation provides examples of the type of information that "may" be submitted. IRRC states that it is unclear how the PUC will determine if the financial information is "sufficient." To improve clarity, IRRC suggests that the minimum documentation that is required or the criteria it will use to determine if the information submitted is "sufficient" be listed.

NEM comments that Section 62.104(a)(7) should not be implemented as it is burdensome. NEM also claims that the reporting requirements at Subsection (a)(8) are also burdensome and add to energy costs for consumers. NEM claims that Subsection (a)(9) reporting requirements are unnecessary and pose barriers for the formation of a competitive market. NEM also states that Section 62.104(b)(5) and (6) should be eliminated because the number of Pennsylvania employees and

the Pennsylvania assets of a natural gas supplier are not related to the technical or financial fitness of marketers or the degree of protection afforded to Pennsylvania customers. Hess agrees with NEM that only Pennsylvania affiliates should be identified.

GASMARK also comments that Subsections (a)(7) and (8) should be eliminated because requiring an applicant to provide information on competency and regulatory experience is invasive, burdensome and unrelated to the requirements of the Act. GASMARK also claims that the requested information is commercially sensitive and divulging it in the application, even under confidentiality provisions, is detrimental to suppliers.

Hess suggests revisions to the language in Subsection (a)(7). Hess suggests that the evidence that must be produced in support of the application should be qualified as being “structured depending on the classes of customers the applicant wishes to serve.” The rationale for this change, Hess reveals, is that the technical competence needed to serve a discreet number of industrial customers is different from that needed to serve hundreds of residential customers.

Also in regard to Subsection (a)(7), Hess proposes the elimination of the specific types of evidence of technical fitness that may be submitted in support of the application and the substitution of evidence of a more general nature: “proposed and/or existing marketing, operational and back office capabilities.” Hess’s rationale for the change is that the listed evidence will be out of date before



the application is processed and such information has nothing to do with proving technical competence. Hess also proposes similar language changes as those discussed for Subsection (a)(7) in Subsection (a)(8), and Subsection (a)(9).

Hess comments that Subsections (b)(5) and (6) should be eliminated. Hess claims that the number of Pennsylvania employees and the Pennsylvania assets of natural gas suppliers have nothing to do with either technical or financial fitness of marketers, and such data may be misleading with respect to marketer competence.

### **Resolution**

In answer to IRRC's comments, Commission staff works closely with each license applicant to ensure completion of the application and the filing of "sufficient" financial fitness documentation. The proposed regulations provide guidance without requiring specificity in order to diminish the costs incurred to seek a license.

In addition, the Commission intentionally avoided specifying creditworthiness measures as a means to encourage new applicants who may not be able to produce historical financial information that would be available only from long-term established energy suppliers or other entities. The Commission would, of course, accept for evaluation any measures of creditworthiness that the applicant might offer. These would include credit reports, bank references, audited financial statements, annual reports, 10K or 10Q filings prepared in past 12 months, confirmation that the applicant is not operating under bankruptcy or

insolvency law, confirmation that no significant lawsuits or judgments are outstanding, confirmation that the applicant is not aware of any adverse condition which could cause a material change in its financial condition, a list of its parent company and other affiliates, three trade references, additional financial information, Dun & Bradstreet financial credit ratings, or access to unused lines of credit.

Concerning the comments of NEM, GASMARK and Hess to Subsections (a) (7) and (8) (9), the Commission notes that it has consistently taken into consideration the specific services proposed to be provided in determining the information that an applicant must provide. This proposed regulation is in fact required by Section 2208(b) of the Act that reads as follows:

[a] license shall be issued to any applicant, off arising the whole or any part of the service covered by the application, if it is found that the applicant is fit, willing and able to perform properly the services proposed and to conform to the applicable provisions of this title and the orders and regulations of the commission, including those concerning standards and billing practices, and that the proposed service, to the extent authorized by the license, will be consistent with the public interest. Otherwise, such application shall be denied.  
66 Pa. C.S. 2208(b) (emphasis added).

Accordingly, each applicant must demonstrate its technical and financial fitness to provide services to the consumers it wishes to serve. The proposed regulations provide examples of information that "may" be filed to meet the requirements of the Act in order to be granted a license.

As to NEM and Hess recommendations that Subsections (b) (5) and (6) be eliminated because they have nothing to do with either the technical or financial

fitness of the marketer and may provide misleading information, the Commission disagrees. The Commission believes that information concerning the applicant's assets and employees located in the Commonwealth is useful in the evaluation of technical fitness of the supplier to perform the service for which it has sought to be licensed.

The additional information required by this section would not seem to be difficult to obtain nor excessively invasive into the applicant's operations. If an applicant is concerned that the information being provided is confidential, it may request confidential treatment pursuant to Section 62.103(e).

Finally, we have several revisions to Subsection (7)(iii) and (iv), (8), 8(iii) and 8 (iv) to correct errors that were introduced in editing the proposed regulation for publication.

#### **V. Section 62.105. Change in organizational or operational status**

This section outlines what is considered to be a material change in the organizational structure or operation that affects an applicant's or a licensee's operation in Pennsylvania.

NEM suggests that the clauses be modified to add "in Pennsylvania" to each clause. NEM states that the scope of the Commission's concerns should be limited to the companies that it regulates. Hess has submitted a similar comment on this regulation.

## **Resolution**

The Commission will not accept NEM and Hess's suggested revisions to this regulation as we do not find them to be persuasive. With the convergence of the electric and natural gas industries and the regionalization of the energy market, it is essential that the Commission understand the relationships between a supplier licensed to provide service in Pennsylvania and its affiliates, both in-state and out-of-state, and any changes that affect those relationships. Depending on the dynamics of the regional and national energy markets, such affiliates can become sources of supply for the licensed supplier serving in Pennsylvania, or they can become competitors for that same supply source. Considering that the Commission is charged with monitoring the gas market for reliability and anti-competitive activity, the need for this information far outweighs the burden of its production.

### **VI. Section 62.106. Open and nondiscriminatory access.**

This section references the standards for open and nondiscriminatory access that must be demonstrated before a municipal corporation is permitted to provide natural gas supply services as a licensed natural gas supplier. IRRC states that for clarity, the final-form regulation should specifically cite the relevant sections of the Act. IRRC also states that the criteria that will be used to determine if a municipal corporation is providing open and nondiscriminatory access to its gas distribution system should be clarified.

## **Resolution**

In response to the request for clarification by the IRRC, the Commission refers to Section 2208(g) of the Act. Section 2208(g) requires that prior to allowing a municipal corporation to become a licensed NGS, it must be able to provide open and non-discriminatory access to other suppliers to its distribution system. Specifically, this section of the law states that the Commission will make a determination of the openness of a municipal corporation's system "taking into consideration the particular circumstances of the municipal corporation's ownership and/or operation of the gas distribution system." From this language, it is clear that the Legislature intended that this determination be made on a case by case basis. Therefore, the Commission does not believe that it is possible or appropriate to identify specific criteria that it will utilize in such fact-intensive proceedings. However, we will reference in this section the relevant provision of the Act at § 2208(g).

### **VII. Section 62.107. Publication of notice of filing.**

Subsection (b)(2) requires a notice of filing an application to be provided to the PUC in an "acceptable electronic format." IRRC states that the term "acceptable" is vague. IRRC recommends that the regulation be amended to make this clarification, or direct an applicant to the location or phone number for the information.

Hess and NEM both suggest the elimination of the second sentence in Section 62.107(b). Hess states that allowing a third party to protest an application is inappropriate in a competitive market as it will delay the application process and cause increased costs for the applicant. Hess also states that the ability of a third party to have access to meaningful financial information beyond that which is publicly distributed is not likely.

NEM states that it supports Hess's argument that allowing a third party to protest an applicant's technical or financial fitness will hamper the growth of the competitive energy market.

### **Resolution**

The Commission believes that it is in the public interest to provide public notice and opportunity to be heard concerning a proposed application to become a licensed Natural Gas Supplier. In processing over 200 applications for electric generation supplier licenses and interim NGS licenses, we have not seen that the opportunity for protest delays the application process. Moreover, competitive protests are not permitted, and where an entity abuses the protest process, penalties may be imposed. In addition, with the ability of the applicant to request that proprietary information be held confidential, we see no reason to accept NEM and Hess's comment.

In regard to Subsection (b)(2), IRRC has requested clarification concerning what is an "acceptable electronic format." At present, the Commission utilizes

Word® software, but as software choices are apt to change over time, we will revise the regulation to direct inquiries about software use to the Commission's Forms Officer.

**VIII. Section 62.108. Protests to applications.**

Subsection (c)(3) states: "If a protest is sufficiently documented, the application will be transferred to the Office of Administrative Law Judge for hearings or mediation as deemed appropriate." IRRC inquires as to whether there is some criteria that will be used to determine which protests will result in hearings and which will result in mediation. IRRC recommends that the Commission explain the process and criteria for establishing whether a protest goes to a hearing or to mediation. It also recommends the deletion of the phrase "as deemed appropriate."

NEM suggests the elimination of this section because it believes that allowing a third party to protest the applicant's technical or financial fitness will hamper the growth of the competitive market. Allowing a competitor or similarly disposed parties an opportunity to delay or increase the costs of the applicant is not advisable.

**Resolution**

NEM and Hess cited concerns of allowing a competitor an opportunity to delay or increase the cost of an application and the detrimental effects this could

have on the development of a competitive marketplace. Pursuant to the proposed regulation, Commission staff members perform a cursory review of protests filed against pending applications in order to eliminate unsupported protests that are not in compliance with the Commission's regulation at 52 Pa. Code § 5.52(a). This regulation requires that the protest identify the right or interest that is sought to be protected so as to establish the standing of the protestant to participate in the proceeding, and the grounds for the protest with supporting facts.

Only those protests that meet this preliminary test are sent to the Office of Administrative Law Judge for hearing or mediation. Accordingly, there is little risk that a frivolous protest will be allowed to proceed further and little risk that an application will be delayed or the costs to the applicant will be increased as a result of allowing for the opportunity for protest. As already discussed, penalties will be imposed on any entity that abuses the protest process.

As to IRRC's concern regarding whether a protest is sent for mediation or hearing, the Commission's regulation at Section 69.392 states that that decision rests with the Office of Administrative Law Judge. Moreover, the treatment of a protest depends on a number of individual factors. These include, *inter alia*, the issues raised by the protest, the involvement of other parties and most importantly, the willingness of the parties to enter into mediation to settle their differences. This is especially true of the protestant who has the burden of proof in regard to the protest and who must consent to the mediation. See 52 Pa. Code § 69.392(d).



The Commission therefore declines to accept IRRC's suggestion to delete the phrase "as deemed appropriate" from Subsection (c)(3).

**IX. Section 62.109. Approval.**

Section 62.109 summarizes the terms under which a license will be issued and notes that the completed applications will be processed within 45 days after acceptance by the Commission and will be deemed approved if not acted on within that time period unless the consideration period is extended. An applicant must comply with requirements of Chapter 56 to obtain a license to provide service to residential customers.

In its comments, Hess suggests the addition of the clause "if applicant indicates potential service to such customers" at the end of Subsection (a)(1). Hess's rationale is that customers who do not serve residential customers do not have to comply with Chapter 56.

**Resolution**

The Commission does not agree to the amendment as Chapter 56 regulations are applicable to some small commercial customers.<sup>2</sup> The Commission notes, however, that it does not require an applicant who proposes to

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<sup>2</sup> "Residential service" at Section 56.2 is defined as utility service supplied to a dwelling, including service provided to a commercial establishment if concurrent service is provided to a residential dwelling attached thereto. Utility service provided to a hotel or motel is not considered residential service." 52 Pa. Code §56.02.

serve industrial and large commercial customers to demonstrate its compliance with Chapter 56.

**X. Section 62.110. Regulatory assessments.**

Proposed Section 62.110 (a) requires licensed NGSs to pay assessments to defray regulatory costs, pursuant to Section 510 of the Public Utility Code (66 Pa. C.S. § 510).

IRRC questions whether the Commission has the statutory authority to collect assessments from NGSs. IRRC states that Section 510 only authorizes the Commission to collect regulatory assessments from public utilities, and the definition of “Natural Gas Supplier” in Section 2202 of the Act states:

“Notwithstanding any other provision of this title, a natural gas supplier ... is not a public utility as defined in Section 102 (relating to definitions)...” (Emphasis added). IRRC states that the Commission should explain its statutory authority for collecting assessments from NGSs under Section 510 or delete Subsection (a).

Hess proposes eliminating this section based on its interpretation of the Commission’s statutory authority to regulate NGSs. IOGA has presented legal arguments to the effect that the Commission lacks statutory authority to assess suppliers. IOGA suggests assessing regulated transportation service of the utility because all customers would then bear the appropriate level of costs relating to the volume of gas delivered. Open Flow and TW Phillips also support the elimination of this section related to assessments. POGAM suggests language which would make assessments applicable only to city natural gas distribution operations

(PGW) consistent with its argument that the Act only provides the Commission with the authority to assess that entity for regulatory costs.

On February 6, 2001, late-filed comments in the form of a White Paper entitled Pennsylvania Public Utility Commission Assessments in a Deregulated Energy Industry (White Paper) were filed for consideration in this rulemaking. The White Paper concludes that the current assessment process needs to be changed if non-utility entities are to share in the payment of the Commission's operating budget. It recommends that the Commission explore with other industry groups potential changes to the current assessment system. It also recommends that the Commission consider requesting that the Governor create a blue ribbon committee to craft legislation that would adapt the Commission funding process to the realities of competition. Furthermore, it recommended that to preclude further deleterious impacts on the fragile state of gas markets, the current system in which gas marketers are not assessed should be continued. The White Paper proposes three alternatives. The first alternative is to assess public utilities only. The second alternative is to assess public utilities and collect user fees for marketers. The third alternative is to abandon the assessment process and fund the Commission from the General Fund.

### **Resolution**

On April 5, 2001, the Commission entered an order in the proceeding, Objections of the Pennsylvania Telephone Association on Behalf of its Members

and Individually, to the Fiscal Year July 1, 1997 through June 30, 1998, General Assessment; Objections of the PTA to the Fiscal Year July 1, 1998 through June 30, 1999, General Assessment, at Docket No. M-00970994, et al. In this order, we recognized that the regulatory environment for electric, gas, telecommunications, and motor carrier industries has dramatically changed over the last five years, and we directed that a Collaborative be convened for each industry to discuss the assessment process as it relates to its respective competitive environment. In light of the upcoming Collaborative on the natural gas industry, we believe that it is premature to promulgate a final regulation relating to the assessment of natural gas suppliers. Therefore, we will delete this section of the regulation and original Subsection 62.114(a)(1). We will renumber the remaining sections as required.

**XI. Section 62.111. Reporting requirements.**

This section describes the information that a licensee is required to file with the Commission annually.

NEM suggests the elimination of Subsection (1). NEM states that the reporting of gross receipts from the sales of natural gas by licensees implies an intent to tax or assess. NEM believes that this issue should be put on hold pending the promulgation of supplier of last resort regulations.

Also, Hess proposes elimination of Subsection (1). It states that requiring customers to report annually the number of residential customers served, by NGDC, will assist the Commission in monitoring market power.

## **Resolution**

The reporting of annual gross receipts is being proposed to provide information about the development of the competitive natural gas market in the Commonwealth. Pursuant to the Act, the Commission has a duty to ensure the development of the market and the availability to all customers of a variety of natural gas supply services offered by suppliers. 66 Pa. C.S. § 2203 (relating to standards for restructuring of natural gas utility industry). This gross receipts information will provide a basis to examine competitiveness among the suppliers.

The Commission notes that the commenters have not indicated that the requested information to be reported was burdensome to produce or that the provision allowing for the confidential treatment of information upon request was inadequate. Under the circumstances, the Commission believes that the reporting requirements are reasonable and will not revise this section of the regulations.

## **XII. Section 62.112. Bonds or other security.**

This section requires an NGS to post a bond or other security to receive a license to conduct business in Pennsylvania. This section also outlines the criteria to be used to determine the amount and the form of the security needed to ensure the licensee's financial responsibility.

IRRC has a number of concerns with this section. First, IRRC comments that it does not include a prioritization of claims for payment under a bond or other

security if an NGS defaults. Establishing this priority of claimants would be consistent with the electric generation supplier licensure regulations at 52 Pa. Code § 54.40(f)(3).

Second, IRRC examines Subsection (c) that states: “The amount and form of the security . . . shall be reasonably based on the criteria established in this section.” IRRC indicates that the term “reasonably” is unnecessary, and it should be deleted from this subsection.

Finally, IRRC comments that Subsection (e) includes the phrase “unreasonable service.” IRRC states that the phrase is unclear, and suggests that the Commission either define it or provide examples of “unreasonable service” in this section.

In its comments, OCA submits that the Commission should modify this rulemaking to include a bonding requirement for consumer protection and to ensure compliance with the Commission’s orders and regulations. OCA notes that the bonding requirement for Electric Generation Suppliers (EGSs) at 52 Pa. Code § 54.40 contains such a purpose and recommends using that regulation as the framework for establishing such a regulation for natural gas suppliers. OCA notes that elements regarding the Gross Receipts Tax would not be applicable to NGS licensing since the Act eliminated this tax.

GASMARK comments that it does not oppose the language in this section and encourages the Commission to be sure that all NGDC bonding requirements are reasonably implemented in the future.

### **Resolution**

In addressing IRRC's first comment, we note that the provisions relating to the security requirement of the Act and the Electric Customer Choice and Competition Act (Electric Choice Act), are markedly different and those differences account for the differences in the regulations for electric generation suppliers and NGSs.

In the restructuring of the electric industry, the Commission found it necessary to set forth a priority for the claims to be paid because of the multiple purposes for the security.

According to 66 Pa. C.S. § 2809(c)(i), the purpose of the bond was to ensure the financial responsibility of the EGS and the supply of electricity at retail in accordance with contracts, agreements or arrangements. One aspect of the supplier's financial responsibility involved the payment of Gross Receipts Tax. Under the electric restructuring legislation, a customer may pay Gross Receipts Taxes to its licensed EGS. In the event that the licensed EGS fails to remit the appropriate Gross Receipts Taxes, the Department of Revenue is authorized to collect these taxes from the Electric Distribution Company (EDC), who in turn can collect them from the customer. In order to alleviate the potential for customers to

pay these taxes twice, the Commission established the payment of Gross Receipts Taxes as the first priority for payment under the bond. The second priority is the reimbursement for the payment of Gross Receipts Taxes by the EDC and the third is other individuals who may have a claim because of failure of the EGS to supply electric generation in accordance with contracts, agreements and arrangements.

In contrast, under the Act, the purpose of the security is to ensure the safety and reliability of the natural gas supply in the Commonwealth. We believe that this is a more general requirement and have interpreted this provision to establish a purpose of the bond for the security is to afford natural gas distribution companies some financial protection for the costs of natural gas supplies in the event of supplier default on its obligation to provide supply for its customers or supplier bankruptcy. Gross Receipts Tax was eliminated for gas supply services. Thus, it is unnecessary to delineate specific priority for the payment of claims as the sole beneficiary by statute is the natural gas distribution company.

As to IRRC's other comment, we agree that the word "reasonably" is unnecessary in this subsection and we will delete it.

The OCA requests that the security include consumer protection provisions and provisions ensuring compliance with the Commission's orders and regulations. However, the request is without foundation in the Act. As discussed, the purpose of the security requirement in the Act is the financial protection of the NGDC and the supplier of last resort in the event of supplier default or bankruptcy. Unlike the Electric Choice Act, the Act does not require the security



to ensure the supply of natural gas supply service at retail in accordance with contracts, arrangements and agreements. Based on this difference in the legislation, we decline to grant OCA's request.

In regard to IRRC's comment to Subsection (e), the term "unreasonable service" refers to a determination made by the Commission upon complaint for unreasonable or inadequate service provided by the Natural Gas Supplier. See 66 Pa. C.S. § 1501 (relating to character of service and facilities). The purpose of this subsection was to note that the provision of a bond or other security did not limit an NGS's financial exposure to penalties resulting from the adjudication of such complaints. The term "unreasonable service" is not easily defined as it is a determination made by the Commission based on the facts of record established in each complaint proceeding. However, to clarify the regulation we will eliminate the phrase "for unreasonable service, or" leaving the reference to violations of the Public Utility Code.

**XIII. Section 62.113. Transfer or abandonment of license.**

This section provides that a license shall not be transferred without prior Commission approval. No license shall be abandoned without 90 days written notice to the Commission, the licensee's customers, and the affected distribution utilities and suppliers of last resort.

### ***Petition and application***

In this section, two steps are required for a license transfer. IRRC comments that the order of the steps is unclear. As written, the regulation implies that the Commission approves license transfers before receiving the financial and technical fitness application. IRRC recommends that the regulation be amended to clarify the chronology of document submittal and whether both the petition and an application are necessary.

### **Resolution**

The Commission agrees with IRRC's comments as it does appear that a two-step process must be followed for a license transfer. For clarity, we will amend the proposed regulation to require that a license application be filed by the transferee at the same time as the petition for transfer is filed.

### ***Abandonment of service***

IRRC states that Subsection (b) contains the phrase: "A licensee may not abandon service...". IRRC questions whether "abandon service" means that an NGS surrenders its license or that the NGS fails to renew or cancels a customer contract. IRRC suggests that the Commission should clarify "abandon service" in the final-form regulation.

OCA comments that the Commission should make it clear that this provision applies if the NGS is abandoning service to any customer or customer

class for any period of time whether or not the NGS is abandoning its license overall. OCA states that this revision is necessary to ensure that customers have adequate time to shop for another NGS. Without adequate notice, customers would be returned to suppliers of last resort even though they wished to continue with alternate suppliers. Additionally, if an alternate supplier is abandoning a large number of customers, the supplier of last resort may require 90 days notice in order to properly plan and procure supply. OCA also states that the regulation should be clarified by expanding the heading to include “abandonment of service.”

GASMARK claims that the 90-day notice requirement exceeds the Commission’s statutory authority and that the requirements of contractual termination between non-utility parties must be reserved to private negotiations and judicial enforcement. GASMARK also provides practical reasons that it opposes this section. First, the 90-day notice requirement is overly broad, and may directly conflict with the terms of the contract. GASMARK also states that the economics of market service fluctuate constantly and customers and suppliers may agree on termination clauses requiring notification of one month or less. A 90-day notice removes flexibility for suppliers and creates a barrier to customer choice.

Hess proposes to revise Subsection (b) to apply to instances where the licensee ceases business with respect to all of its customers in a particular utility jurisdiction, and to shorten the 90-day notice period to a 45-day notice period. It also proposes written notice be given to individuals as provided for in the service

contract. Hess states that it is important that the Commission know what happens to large numbers of customers, but that shouldn't interfere with an individual company's business plans and legal obligations.

### **Resolution**

We agree with the IRRC and OCA comments that the term "abandon service" fails to convey the circumstances which the Commission wishes to address. The Commission is addressing a situation in which the NGS ceases business and abandons its license. The Commission is not addressing a circumstance under which the NGS is no longer offering service to potential customers or withdrawing from further offerings to customers in a certain customer class. Therefore we will amend the language in the proposed regulation.

The Commission believes that objections raised by GASMARK and Hess concerning the proposed 90-day notice period are premised upon the belief that the Commission is attempting to address the termination of a particular customer's contract with a licensed Natural Gas Supplier. This proposed regulation does not address individual customer contracts. The purpose of this section was to address the notice to be provided when a licensee abandons its license and no longer serves all its existing customers. The Commission believes that a 90-day notice requirement for the abandonment of a license is not unreasonable. The

Commission, the customers, and the Suppliers of Last Resort all require significant lead times in order to prepare for the potential transfer of services.

**XIV. Section 62.114. License suspension; license revocation.**

If the licensee fails to comply with the various Commission requirements, regulations and orders outlined in this section, a license may be suspended or revoked, and fines may be imposed against the licensee. Section 62.114(a)(1) provides that the license of an NGS may be suspended or revoked for failure to pay an assessment.

In its comments, IRRC again questions the Commission's statutory authority to assess NGSs under Section 510 of the Public Utility Code for the same reasons it previously cited. IRRC again recommends deleting subsection (a)(1) from the final-form regulation.

Also, NEM and POGAM also urge that this subsection be eliminated because the Commission is exceeding its statutory authority by assessing marketers who seek to maintain a license as a natural gas supplier.

**Resolution**

The Commission believes that it is appropriate to delineate several specific conditions that would result in the revocation of a Natural Gas Supplier's license. However, consistent with our decision to delete Section 62.110 (relating to regulatory assessments), we will likewise delete Subsection 62.114(a)(1). We will renumber the subsections as required.

Accordingly, under Sections 501, 2203 (12), and 2208 of the Public Utility Code, 66 Pa. C.S. §501, §2203(12) and §2208, and the Commonwealth Documents Law, 45 P.S. §§1201, et seq., and regulations promulgated thereunder at 1 Pa. Code §§7.1-7.4, we amend the regulations at 52 Pa. Code §3.551 and §§62.101-62.114 as noted above and as set forth in Annex A; **THEREFORE, IT IS ORDERED:**

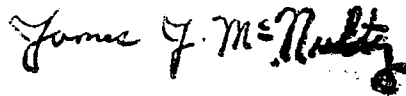
1. That the regulations of the Commission at 52 Pa. Code are amended by adding § 3.551(16), §§62.101 - 62.114 to read as set forth in Annex A.
2. That the Secretary shall submit this order and Annex A to the Office of the Attorney General for approval as to form and legality.
3. That the Secretary shall submit a copy of this order, together with Annex A, to the Governor's Budget Office for review of fiscal impact.
4. That the Secretary shall submit this order and Annex A for formal review by the designated standing committees of both Houses of the General Assembly, and for formal review and approval by the Independent Regulatory Review Commission.
5. That the Secretary shall duly certify this order and Annex A and deposit them with the Legislative Reference Bureau for Publication in the Pennsylvania Bulletin.
6. That a copy of this order and Annex A be served on the Office of Consumer Advocate, the Office of Small Business Advocate, all persons who

submitted comments, all natural gas distribution companies and all licensed natural gas suppliers and be provided to all interested persons.

7. That the regulations adopted with this order are effective upon publication in the Pennsylvania Bulletin.

8. The contact persons are Patricia Krise Burket, at 717-787-3464 (legal) or Robert Bennett, at 717-787-5553 (technical). Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Review Coordinator, Law Bureau at 717-772-4597.

**BY THE COMMISSION,**



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: April 19, 2001

ORDER ENTERED: **APR 20 2001**

**ANNEX A**  
**TITLE 52. PUBLIC UTILITIES**  
**PART 1. PUBLIC UTILITY COMMISSION**  
**Subpart A. GENERAL PROVISIONS**  
**CHAPTER 3. SPECIAL PROVISIONS**  
**Subchapter H. FORMS**

**§3.551. Official forms.**

The following is a list of forms which may be obtained from the Office of the Secretary of the Commission.

\* \* \* \* \*

- (16) Application for natural gas supplier license.

\* \* \* \* \*

**Subpart C. FIXED SERVICE UTILITIES**  
**CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE**  
**Subchapter D. LICENSING REQUIREMENTS FOR NATURAL**  
**GAS SUPPLIERS**

**§62.101. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*- The Natural Gas Choice and Competition Act (66 Pa. C.S. §§ 2201 - 2212).

*Applicant*- A person or entity seeking to obtain a license to supply retail natural gas supply services to retail customers.

*City natural gas distribution operation*- A collection of real and personal assets used for distributing natural gas to retail gas customers owned by a city or a



municipal authority, nonprofit corporation or public corporation formed under §2212(m) of the act (relating to city natural gas distribution operations).

***License-*** A license granted to an NGS under this subchapter.

***Licensee-*** A person or entity that has obtained a license to provide natural gas supply services to retail customers.

***Marketing-*** The publication, dissemination or distribution of informational and advertising materials regarding the NGS's services and products to the public by personal contact, print, broadcast, electronic media, direct mail or by telecommunication.

***Marketing services consultant-*** A commercial entity, such as a telemarketing firm or auction-type website, OR ENERGY CONSULTANT, that under contract to a licensee OR A RETAIL CUSTOMER, MAY acts as an agent to market natural gas supply services to retail gas customers for the licensee OR MAY ACT AS AN AGENT TO RECOMMEND THE ACCEPTANCE OF OFFERS TO PROVIDE SERVICE TO RETAIL CUSTOMERS. A marketing services consultant:

(i) Does not collect ~~revenues~~ NATURAL GAS SUPPLY COSTS directly from retail customers.

(ii) Is not responsible for the scheduling of natural gas supplies.

(iii) Is not responsible for the payment of the costs of the natural gas to suppliers, producers, or NGDCs.

~~**NGDC-Natural Gas Distribution Company-** A public utility or city natural gas distribution operation that provides natural gas distribution services and which may provide natural gas services and other services. AS DEFINED AT 66 PA. C.S. § 2202.~~

~~**Natural Gas Supplier-** An entity other than a NGDC, including an NGDC's marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of an NGDC.~~

~~(i) The term includes an NGDC provides natural gas supply services outside its certificated service territories.~~

~~(ii) The term includes a municipal corporation, its affiliates or any joint venture to the extent that it chooses to provide natural gas services to retail customers located outside its corporate or municipal limits, as applicable, other than:~~

~~(i) As provided prior to the effective date of Natural Gas Choice and Competition Act, pursuant to a certificate of public convenience if required.~~

~~(ii) Total natural gas supply services in de minimis amounts.~~

~~(iii) Natural gas supply services requested by or provided with the consent of the public utility in whose certificated territory the service is provided.~~

~~(iv) Natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law, AS DEFINED AT 66 PA. C.S. § 2202.~~

**Natural gas supply services** -~~The term includes:~~

~~(1) The sale or arrangement of the sale of natural gas to retail gas customers.~~

~~(2) Services that may be unbundled by the Commission under section 2203(3) of the act (relating to standards for restructuring of natural gas utility industry).~~ AS DEFINED AT 66 PA. C.S. § 2202.

**Nontraditional marketer** - a community-based organization, civic, fraternal or business association, OR common interest group ~~or commercial entity~~ that works with a licensed supplier as an agent to market natural gas supply services to its members or constituents. A non-traditional marketer:

(i) Conducts its transactions through a licensed NGS.

(ii) Does not collect revenues directly from retail customers.

(iii) Does not require its members or constituents to obtain its natural gas service through the nontraditional marketer or a specific licensed NGS.

(iv) Is not responsible for the scheduling of natural gas supplies.

(v) Is not responsible for the payment of the costs of the natural gas to its suppliers or producers.

**Offer to provide service**- The extension of an offer to provide services or products communicated orally or in writing to a customer.

**Retail gas customer**- ~~A direct purchaser of natural gas supply services or natural gas distribution services, other than an NGS.~~ AS DEFINED AT 66 PA. C.S. § 2202.

***Supplier of Last Resort***- A supplier approved by the Commission under section 2207 (a) of the act (relating to obligation to serve) to provide natural gas supply services to customers who contracted for natural gas that was not delivered, or who did not select an alternative NGS, or who are not eligible to obtain competitive natural gas supply, or who return to the supplier of last resort after having obtained competitive natural gas supply.

**§62.102. Scope of licensure.**

(a) An NGS may not engage in marketing, or may not offer to provide, or provide natural gas supply services to retail customers until it is granted a license by the Commission.

(b) A NGDC acting within its certified service territory as a supplier of last resort is not required to obtain a license.

(c) The owners/operators of a building or facility that manages the internal distribution system supplying a building or facility and ~~supplies~~ SUPPLY natural gas and other related services to occupants of the building or the facility where the owners/operators, and not the occupants, are the direct purchasers of the natural gas supply services are not required to obtain a license.

(d) A nontraditional marketer is not required to obtain a license. ~~Each nontraditional marketer and each licensed NGS shall provide the Commission with a copy of their agreement to market natural gas supply services to retail customers prior to the nontraditional marketer engaging in any natural gas supply service~~

~~sales activity.~~ The licensed ~~natural gas supplier~~-NGS shall be responsible for violations of 66 Pa. C.S. (relating to the Public Utility Code), and applicable regulations of this title, orders and directives committed by the nontraditional marketer and fraudulent, deceptive or other unlawful marketing or billing acts committed by the non-traditional marketer.

(e) A marketing services consultant is not required to obtain a license. ~~Each marketing services consultant and each licensed NGS must provide the Commission with a copy of their agreement to market natural gas supply services to retail customers prior to the marketing services consultant engaging in any natural gas supply service sales activity.~~ The licensed NGS shall be responsible for violations of 66 Pa. C.S. and applicable regulations of this title, orders and directives committed by the marketing services consultant and fraudulent, deceptive or other unlawful marketing or billing acts committed by the marketing services consultant.

### **§62.103. Application process.**

(a) An application for a license shall be made on the form provided by the Commission. A copy of the application can be obtained from the Commission's Secretary. The application form is also available on the Commission's Internet web site. An application shall be verified by an oath or affirmation as required in § 1.36 (relating to verification). See section 2208(b) of the act (relating to requirements for natural gas suppliers).

(b) An original and eight copies of the completed application and supporting attachments shall be filed. An electronic copy of the application shall also be filed. An application for a license shall be accompanied by the application fee as established in § 1.43 (relating to schedule of fees payable to the Commission).

(c) SUBJECT TO SUBSECTION (E), ~~C~~copies of the completed applications with supporting documentation shall be served on the following:

- (1) The Office of Consumer Advocate.
- (2) The Office of Small Business Advocate.
- (3) The Office of the Attorney General, ~~(4) the~~ Bureau of Consumer Protection.
- ~~(5)~~ (4) The Department of Revenue, ~~and~~.
- (5) Each NGDC in whose service territory the applicant intends to provide natural gas supply services.

(d) Incomplete applications and those without supporting attachments, if needed, will be rejected without prejudice. The license application, with supporting attachments, shall be completed in its entirety.

(e) When an answer on the application requires the disclosure of privileged or confidential information not otherwise available to the public, the applicant may designate at each point in the application where information is disclosed that is confidential and privileged. One copy of this confidential or privileged

information conspicuously marked at the top as “CONFIDENTIAL” may be submitted to the Office of the Secretary with the application.

- (1) An applicant must provide reasons for protecting this information.
- (2) The request for confidentiality will be treated as a petition for protective order and will be ruled on by the Commission in conjunction with the license application.
- (3) Pending disposition, the information will be used solely for the purpose of evaluating the license application, and the confidentiality of this information will be maintained consistent with the Commission’s rules and regulations pertaining to confidentiality.

**§62.104. Application form.**

(a) The application form includes information that will be used in the evaluation of the financial fitness and technical fitness to render service.

Information includes:

- (1) Identification of the geographic area that the applicant proposes to serve.
- (2) Identification of the type of service that the applicant proposes to furnish.
- (3) Identification of the class of customers to which the applicant proposes to provide these services.

- (4) Identification of the applicant's utility affiliates.
- (5) Description of the applicant's business structure.
- (6) Financial information sufficient to demonstrate financial fitness.

This information may include credit ratings and history, audited financial statements, and insurance pertinent to the conduct of the applicant's business as an NGS.

(7) Evidence of competency and experience in providing the scope and nature of the applicant's proposed services.

This evidence may include:

- (i) Descriptions of the applicant's prior experience.
- (ii) Proposed staffing and employee training commitments.
- (iii) Business plans and agreements.
- (iv) AGREEMENTS, Arrangements and contracts for natural gas supply procurement, transmission and related services.

(8) Evidence ~~of information~~ demonstrating the applicant's ability to comply with APPLICABLE Commission ~~applicable~~ requirements concerning customer billing, customer education, billing and terms of service, and customer information. This evidence may include:

- (i) Prior regulatory experience of applicant.
- (ii) Prior business experience in energy or other service-oriented industries.
- (iii) Staffing and staff training commitments, ~~agreements~~.



(iv) **AGREEMENTS, Arrangements and contracts for customer education and information service.**

(v) **Customer satisfaction survey results.**

(vi) **Government agency reports.**

(vii) **Complaint statistics compiled by the Better Business Bureau or similar business organizations.**

(9) **Certification that notice of the application was published in accordance with §54.35 (relating to publication of notice of filing) shall be filed with the Commission's Secretary. The certification shall be notarized and include a photostatic copy of the notices as published. An application will not be considered complete for Commission review without this certification.**

(b) **Additional information that shall be submitted in support of the application includes:**

(1) **The name, address, telephone number, electronic numbers and addresses used to transmit tax and related information of the persons responsible for preparing and filing the applicant's Pennsylvania tax returns.**

(2) **The trade names or fictitious names used by the applicant.**

(3) **The type of business association (for example, sole proprietor, partnership or corporation).**

(4) **The names of the owners, general partners, or corporate officers.**

(5) **The number of applicant's current and anticipated employees working in this Commonwealth.**

(6) An identification of applicant's assets in this Commonwealth.

(7) The principal office in this Commonwealth or of its registered agent.

(8) The applicant's Department of Revenue tax identification numbers including Sales Tax license number, employer identification number, and corporate box number.

**§62.105. Change in organizational structure or operational status.**

(a) The applicant is under a duty to inform the Commission of a material change in the information provided in the application during the pendency of the application, or while the licensee is operating in this Commonwealth.

(b) A material change in the organizational structure or operation that affects an applicant's or a licensee's operation in this Commonwealth shall be reported to the Commission within 30 days of the date of the change. Specifically, notification shall be given to the Commission of a change in the following:

(1) Affiliation with an NGDC.

(2) Affiliation with an entity that has a franchised service area.

(3) Affiliation with other NGS.

(4) Affiliation with licensed electric generation supplier.

(5) Office location.

(6) Chief executive officer or operating partners.

(7) Customer classes served expanded to include residential and small commercial customers.

(c) Unless directed otherwise by the Commission, the licensee does not need to file an amended application with the Commission.

**§62.106. Open and nondiscriminatory access.**

A municipal corporation shall, before it is permitted to provide natural gas supply services as a licensed NGS, demonstrate, and the Commission will determine, that by the date of the issuance of the license, it will provide other NGSs open and nondiscriminatory access to its gas distribution system under standards that are comparable to those found in the act, taking into consideration the particular circumstances of the municipal corporation's ownership or operation, or both, of its natural gas distribution system. SEE 66 Pa. S.C. §2208 (G) (RELATED TO OPEN AND NONDISCRIMINATORY ACCESS).

**§62.107. Publication of notice of filing.**

(a) Notice of filing an application shall be published in newspapers of general circulation covering each county in which the applicant intends to provide service as required by § 5.14(a)(2) (relating to applications requiring notice). Applicants may contact the Commission's Press Secretary to confirm the identity of the newspapers of general circulation in which notice shall be published.

(b) The notice shall be written in plain language and include the name, address and telephone number of the applicant, a description of the proposed service or services to be provided and the geographic area to be served.

(1) The notice shall include the application docket number and a statement that protests related to the technical or financial fitness of the applicant shall be filed within 15 days of the publication date of the notice with the Commission's Secretary, Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

(2) The notice in an acceptable electronic format shall be submitted to the Commission's Secretary for posting on the Commission's Internet web site.

INQUIRIES CONCERNING THE ELECTRONIC FORMAT MAY BE  
DIRECTED TO THE COMMISSION'S FORMS OFFICER.

**§62.108. Protests to applications.**

(a) Consistent with § 5.14(b) (relating to applications requiring notice), a 15-day protest period commences on the date notice of the application filing is published in newspapers. An interested party may file a protest to an application in compliance with §5.52(a) (relating to content of a protest to an application) and shall set out clearly and concisely the facts upon which challenge to the fitness of the applicant is based. An applicant may file an answer to the protest within 10 days of when the protest is filed. Protests which do not fully comply with § 5.52(a) (relating to content of a protest to an application) will be rejected.

(b) Protests may challenge only the applicant's financial and technical fitness to provide the service for which a license is requested. Consistent with the requirements of due process, sanctions, such as revocation or suspension of a supplier's license or the imposition of a fine, may be imposed on parties who intentionally misuse the protest process by repeated filing of competitive protests.

(c) A protest to the applicant's technical or financial fitness to provide service will be assigned to Commission staff for review. Staff will determine if the protest fully complies with § 5.52(a) and sets out clearly and concisely the facts upon which the challenge to the fitness of the applicant is based.

(1) Staff will determine if the protest is sufficiently documented.

(2) If a protest is not sufficiently documented, Commission staff will prepare a recommendation for Commission consideration dismissing the protest and granting the application.

(3) If a protest is sufficiently documented, the application will be transferred to the Office of Administrative Law Judge for hearings or mediation as deemed appropriate.

#### **§62.109. Approval.**

(a) A license will be issued, authorizing the whole or any part of service requested, if the Commission finds that:

(1) The applicant is fit, willing and able to properly perform the service proposed in conformance with applicable provisions of the 66 Pa. C.S.

(relating to the Public Utility Code) and the lawful Commission orders and regulations, specifically including Chapter 56 (relating to standards and billing practices for residential utility service).

(2) The proposed service is consistent with the public interest and the policy declared in the act (See 66 Pa. C.S. §2208(b)(relating to requirements for natural gas suppliers)).

(b) Completed applications, with all supporting documentation, including any documentation or clarifying information requested by Commission staff, if unopposed, will be processed within 45 days after acceptance by the Commission. If the application is not processed within the time period, the application will be deemed approved. The review period may be extended for a reasonable period of time by Secretarial Letter.

~~§62.110. Regulatory assessments.~~

~~(a) A licensee shall be required to pay assessments to be used to defray regulatory costs. See 66 Pa. C.S. §510 (relating to assessments for public utilities).~~

~~(1) Assessments will be based upon the administrative costs incurred by the Commission related to suppliers.~~

~~(2) These costs include:~~

~~(i) Maintaining records related to licensees, and administering other provisions of 66 Pa. C.S. (relating to the Public Utility Code) related to maintenance of adequate reserve margins.~~

~~(ii) Compliance with Chapter 56 (relating to standards and billing practices for residential utility service)~~

~~(iii) Fulfilling consumer information and education obligations.~~

~~(b) Yearly assessments shall be paid by the licensee within 30 days of receipt of notice of the amount lawfully charged against it as a condition of maintaining a license to supply natural gas. See 66 Pa. C.S. §510(e).~~

~~§62.111~~ **62.110. Reporting requirements.**

(a) A licensee shall file an annual report on or before April 30 of each year, for the previous calendar year. The annual report shall contain the following information:

(1) The total amount of gross receipts from the sales of natural gas supply services for the preceding calendar year.

(2) The total amount of natural gas sold during the preceding calendar year.

(3) THE NAMES AND ADDRESSES OF NONTRADITIONAL MARKETERS AND MARKETING SERVICES CONSULTANTS WHO ARE CURRENTLY OR WILL BE ACTING AS AGENTS FOR THE LICENSEE IN THE UPCOMING YEAR.

(b) A licensee shall be required to meet periodic reporting requirements issued by the Commission to fulfill the Commission's duty under the act pertaining

to reliability and to inform the Governor and General Assembly of the progress to a fully competitive natural gas market.

(c) The information requested in this section will be made available for public review upon request to the Commission subject to any rulings on confidentiality made by the Commission.

**~~§62.112~~ 62.111. Bonds or other security.**

(a) A license will not be issued or remain in force until the licensee furnishes proof of a bond or other security. See section 2208(c)(1)(i) of the act (relating to requirements for natural gas suppliers).

(b) The purpose of the security requirement is to ensure the licensee's financial responsibility. See section 2208(c)(1)(i) of the act.

(c) The amount and the form of the security, if not mutually agreed upon by the natural gas distribution company and the licensee, shall be ~~reasonably~~ based on the criteria established in this section. The criteria shall be applied in a non-discriminatory manner. The Commission will periodically review the established criteria upon petition by any party.

(1) The amount of the security should be reasonably related to the financial exposure imposed on the NGDC or supplier of last resort resulting from the default or bankruptcy of the licensee. At a minimum, the amount of security should materially reflect the difference between the cost of gas incurred and the



supplier's charges, if any, incurred by the NGDC or supplier of last resort during one billing cycle.

(i) The amount of security established under this paragraph may be modified based on one or more of the following:

(A) The licensee's past operating history, including the length of time that the licensee operated on the NGDC's system, the number of customers served, and past supply reliability problems.

(B) The licensee's credit reports.

(C) The number and class of customers being served.

(D) Information that materially affects a licensee's creditworthiness.

(E) The licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs.

(ii) The amount of the security may be adjusted, but not more often than every 6 months. The adjustments shall be reasonable and based on one or more of the following criteria:

(A) Changes in a licensee's recent operating history on the NGDC's system.

(B) Changes in a licensee's credit reports.

(C) Changes in the number or class of customers being served by the licensee.

(D) Changes in circumstances that materially affect a licensee's creditworthiness.

(E) The licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs.

(2) The following legal and financial instruments and property shall be acceptable as security:

(i) Bond.

(ii) Irrevocable letter of credit.

(iii) Corporate, parental or other third-party guaranty.

(3) In addition to the requirements in this section, small suppliers with annual operating revenues of less than \$1 million may utilize real or personal property with the following supporting documentation acceptable as security:

(i) A verified statement from the licensee that it has clear title to the property and that the property has not been pledged as collateral, or otherwise encumbered in regard to any other legal or financial transaction.

(ii) A current appraisal report of the market value of the property.

(d) The licensee shall submit to the Commission documentation demonstrating that it has complied with the bonding or security requirement. One copy of each bond, letter of credit, or other financial or legal instrument or document evidencing an agreement between the licensee and the natural gas distribution company shall be submitted to the Commission.

(e) Licensee liability ~~for unreasonable service, or~~ for violations of 66 Pa. C.S. (relating to the Public Utility Code) and Commission orders and regulations is not limited by these security requirements.

**~~§62.113.62.112.~~ Transfer or abandonment of license.**

(a) A license shall not be transferred without prior Commission approval. See section 2208(d) of the act (relating to requirements for natural gas suppliers). Approval for transfer shall be obtained by petition to the Commission. A LICENSE APPLICATION MUST BE FILED BY THE TRANSFEREE AT THE SAME TIME THAT THE PETITION FOR TRANSFER IS FILED AND MUST DEMONSTRATE. ~~The granting of such a petition shall not eliminate the need for the transferee to complete and file with the Commission an application that demonstrates~~ the transferee's financial and technical fitness to render service under the transferred license.

(b) A licensee may not abandon ~~service~~ ITS LICENSE without providing 90 days prior written notice to the Commission, the licensee's customers, the affected distribution utilities and suppliers of last resort. The licensee shall provide written individual notice to its customers at approximately 90 days and 60 days preceding the effective date of the abandonment.

**~~§62.114.62.113.~~ License suspension; license revocation.**

(a) A licensee must comply with all applicable requirements of 66 Pa. C.S. (relating to the Public Utility Code) and Commission regulations and orders. Consistent with due process, a license may be suspended or revoked, and fines may be imposed against the licensee for:

~~(1) Failure to pay the yearly assessment.~~

~~(2)~~ (1) Failure to furnish and maintain a bond or other security.

~~(3)~~ (2) Failure to comply with the rules, regulations, orders or directives of the Department of Revenue.

~~(4)~~ (3) Failure to provide the address of its current principal office in the Commonwealth or of its registered agent.

~~(5)~~ (4) Failure to follow the principles in § 62.115 (relating to standards of conduct and disclosure for licensees).

~~(6)~~ (5) Violation of applicable provisions of 66 Pa. C.S. , Commission regulations and lawful Commission orders. See section §2208(c)(2) of the act (relating to requirements for natural gas suppliers).

~~(7)~~ (6) Violation of Pennsylvania consumer protection law.

(b) The unauthorized transfer by an NGDC, or its affiliate, of a customer's natural gas supplier without the customer's express consent will result in a fine, or the suspension, or the revocation of the license of that NGDC's affiliated NGS. See section 2206(b) of the act (relating to consumer protection and customer service).

(c) The unauthorized transfer by a licensed NGS, or its affiliate, of a customer's NGS without the customer's express consent will result in a fine, or the suspension, or the revocation of the license of that NGS.

**~~§62.115.62.114.~~ 62.114. Standards of conduct and disclosure for licensees.**

To protect the consumers of this Commonwealth, licensees shall adhere to the following principles in the provision of natural gas service:

(1) A licensee shall provide accurate information about its natural gas services using plain language and common terms in communications with consumers. When new terms are used, such terms shall be defined again using plain language.

(2) A licensee shall provide notification of change in conditions of service, intent to cease operation as a natural gas supplier, explanation of denial of service, proper handling of deposits and proper handling of complaints in accordance with this title.

(3) A licensee shall maintain the confidentiality of a consumer's personal information including name, address and telephone number, and historic payment information, and provide the right of access by the consumer to the consumer's own load and billing information.

(4) A licensee may not discriminate in the provision of natural gas as to availability and terms of service based on race, color, religion, national origin, sex, marital status, age, receipt of public assistance income, and exercise of rights

under the Consumer Credit Protection Act, (15 U.S.C.A. §§1601 - 1693c). See 15 U.S.C.A. §§1691-1691f (relating to equal credit opportunity); and 12 C.F.R. Part 202 (relating to equal credit opportunity)(Regulation B).

(e) A licensee is responsible for any fraudulent, deceptive or other unlawful marketing or billing acts performed by the licensee, its employees, agents or representatives. A licensee shall inform consumers of state consumer protection laws that govern the cancellation or rescission of natural gas supply contracts. See section 7 of the Unfair Trade Practices and Consumer Protection Law (73 P. S. §201-7).

(f) A licensee shall comply with relevant Commission regulations, orders and directives that may be adopted.



PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH OF PENNSYLVANIA

JOHN M. QUAIN  
CHAIRMAN

May 3, 2001

The Honorable John R. McGinley, Jr.  
Chairman  
Independent Regulatory Review Commission  
14th Floor, Harrisburg II  
333 Market Street  
Harrisburg, PA 17101

Re: L-00000150/57-217  
Final Rulemaking  
Licensing Requirements for  
Natural Gas Suppliers  
52 Pa. Code Chapter 62

Dear Chairman McGinley:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on June 2, 2000, submitted a copy of the Notice of Proposed Rulemaking to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission (IRRC). This notice was published at 30 Pa.B. 3073, on June 17, 2000. In compliance with Section 745.5(b.1) copies of all comments received were provided to your Commission and the Committees.

In preparing this final form rulemaking, the Public Utility Commission has considered all comments received from the Committees, IRRC and the public.

Very truly yours,

A handwritten signature in black ink, appearing to read "John M. Quain".

John M. Quain  
Chairman

**Enclosures**

cc: The Honorable Clarence D. Bell  
The Honorable Lisa Boscola  
The Honorable Chris R. Wogan  
The Honorable Keith McCall  
Legislative Affairs Director Perry  
Chief Counsel Pankiw  
Regulatory Coordinator DelBiondo  
Assistant Counsel Burket  
Mr. Bennett  
Mr. Zogby



TRANSMITTAL SHEET FOR REGULATIONS SUBJECT  
TO THE REGULATORY REVIEW ACT

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ID Number: L-00000150/57-217

Subject: Licensing Requirements for Natural Gas Suppliers

Pennsylvania Public Utility Commission

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**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

RECEIVED  
 2001 MAY -3 AM 11:47  
 REVIEW OF COMMISSION

**FILING OF REPORT**

Date	Signature	Designation
<u>5/3/01</u>	<u>[Signature]</u>	<u>HOUSE COMMITTEE</u> Consumer Affairs
<u>MAY 03 2001</u>	<u>[Signature]</u>	<u>SENATE COMMITTEE</u> Consumer Protection and Professional Licensure
<u>5-3-01</u>	<u>[Signature]</u>	<u>Independent Regulatory Review Commission</u>
_____	_____	<u>Attorney General</u>
_____	_____	<u>Legislative Reference Bureau</u>

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