

42674

**From:** Totino, Michaele  
**Sent:** Wednesday, April 23, 2008 2:46 PM  
**To:** Gelnett, Wanda B.  
**Subject:** FW: Docket No. L-00070186; Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements and Customer Assistance Programs; Comments of the Peoples Natural Gas Company d/b/a Dominion Peoples



Dominion Peoples  
Comments.PDF ...

-----Original Message-----

**From:** Burket, Patricia [mailto:pburket@state.pa.us]  
**Sent:** Wednesday, April 23, 2008 2:39 PM  
**To:** Totino, Michaele; Jewett, John H.  
**Subject:** FW: Docket No. L-00070186; Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements and Customer Assistance Programs; Comments of the Peoples Natural Gas Company d/b/a Dominion Peoples

Here's Dominion Peoples.

-----Original Message-----

**From:** Christina L. LaMaida [mailto:cllamaida@hmslegal.com]  
**Sent:** Friday, April 18, 2008 10:39 AM  
**To:** michasmit@state.pa.us; pburket@state.pa.us; cypage@state.pa.us  
**Cc:** Lillian S. Harris  
**Subject:** Docket No. L-00070186; Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements and Customer Assistance Programs; Comments of the Peoples Natural Gas Company d/b/a Dominion Peoples

<<Dominion Peoples Comments.PDF>>

Good morning. Attached to this e-mail you will find a PDF copy of the Comments of The Peoples Natural Gas Company, d/b/a Dominion Peoples, in the above-referenced matter, filed with the Commission today.

If you have any questions or concerns regarding the attached, please do not hesitate to contact Lillian S. Harris, Esquire at 717-236-1300. Thank you for your attention to this matter.

Regards,

Christina

Christina L. LaMaida  
Administrative Assistant

Hawke McKeon & Sniscak LLP  
100 N. Tenth Street  
Harrisburg, PA 17101  
717-236-1300  
717-236-4841 (Fax)  
Cllamaida@hmslegal.com

RECEIVED  
2008 APR 23 PM 3:07  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

THIS E-MAIL MAY CONTAIN PRIVILEGED, CONFIDENTIAL, COPYRIGHTED, OR OTHER LEGALLY PROTECTED

INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT (EVEN IF THE E-MAIL ADDRESS ABOVE IS YOURS), YOU MAY NOT USE, COPY, OR RETRANSMIT IT. IF YOU HAVE RECEIVED THIS BY MISTAKE PLEASE NOTIFY US BY RETURN E-MAIL, THEN DELETE. THANK YOU.

NEW IRS RULES RESTRICT WRITTEN FEDERAL TAX ADVICE FROM LAWYERS AND ACCOUNTANTS. THIS STATEMENT IS INCLUDED IN OUTBOUND EMAILS BECAUSE EVEN INADVERTENT VIOLATIONS MAY BE PENALIZED. NOTHING IN THIS MESSAGE IS INTENDED TO BE USED, OR MAY BE USED, TO AVOID ANY PENALTY UNDER FEDERAL TAX LAWS. THIS MESSAGE WAS NOT WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF ANY TRANSACTION.



William T. Hawke  
Kevin J. McKeon  
Thomas J. Sniscak  
Lillian Smith Harris  
Scott T. Wyland  
Todd S. Stewart

Craig R. Burgraff  
Janet L. Miller  
Steven K. Haas  
William E. Lehman  
Katherine E. Lovette  
Amy Whitney Baer

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

April 18, 2008

**VIA HAND DELIVERY**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2<sup>nd</sup> Floor)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

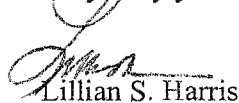
RE: Docket No. L-00070186; Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements and Customer Assistance Programs; **COMMENTS OF THE PEOPLES NATURAL GAS COMPANY d/b/a DOMINION PEOPLES**

Dear Mr. McNulty:

Enclosed, for filing with the Commission, are fifteen (15) copies of the Comments of The Peoples Natural Gas Company d/b/a Dominion Peoples in the above-captioned matter. Also enclosed is a diskette containing a copy of the Comments. Copies of these Comments have been served via email upon those persons identified in the Commission's September 4, 2007 Order.

Please direct any questions regarding this filing to me. Thank you for your attention to this matter.

Very truly yours,



Lillian S. Harris  
Counsel for The Peoples Natural Gas Company  
d/b/a Dominion Peoples

LSH/cil

Enclosures

cc: Michael Smith (via electronic mail)  
Patricia Krise Burket (via electronic mail)  
Cyndi Page (via electronic mail)  
William E. McKeown (via electronic and 1<sup>st</sup> class mail)  
Joseph J. Gregorini (via electronic and 1<sup>st</sup> class mail)  
Sadie Kroeck (via electronic and 1<sup>st</sup> class mail)

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Proposed Rulemaking Relating to :  
Universal Service and Energy Conservation : Docket No. L-00070186  
Reporting Requirements and Customer :  
Assistance Programs :

---

**COMMENTS OF  
THE PEOPLES NATURAL GAS COMPANY  
d/b/a DOMINON PEOPLES**

---

**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Pursuant to the Pennsylvania Public Utility Commission's ("Commission") Order entered in the above-captioned matter on September 4, 2007 ("September 4 Order") and published in the Pennsylvania Bulletin on February 9, 2008, The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples") hereby submits its comments on the Order and proposed rulemaking which seeks to revise the Commission's regulations on Universal Service and Energy Conservation Reporting Requirements and to add regulations addressing Customer Assistance Programs ("CAP").<sup>1</sup>

**BACKGROUND**

On December 18, 2006, the Commission entered its Final Investigatory Order in Docket M-00051923, therein concluding that Chapters 54 and 62 of its regulations, dealing with universal service and energy conservation, should be revised and that regulations regarding customer assistance programs should be promulgated. The September 4 Order (entered in

---

<sup>1</sup> Dominion Peoples supports the Comments filed in this matter today by the Energy Association of Pennsylvania ("EAPA"), but provides these additional comments to highlight particular areas of concern to Dominion Peoples.

Docket L-00070186) requested comments on the draft regulations. The primary objective of the rulemaking is to establish a triennial review process for all aspects of a utility's universal service, energy conservation and CAP programs. The September 4 Order is extensive in scope and was prepared in conjunction with the pending changes to the Commission's CAP Policy Statement.

Dominion Peoples appreciates the Commission's efforts to update its regulations and to unify the review process for CAP, Universal Service and Energy Conservation Programs. Dominion Peoples also appreciates the opportunity to comment on the proposed regulations.

## **COMMENTS**

### **The Definitions Contained in Sections 62.2 and 76.2 Should be Revised**

With regard to the proposed definition of "Customer Assistance Program" in Sections 62.2 and 76.2, the term "payment troubled" should be included in the description of customers eligible to receive CAP benefits. The Commission has stated unequivocally that the interests of both CAP customers and non-CAP customers must be considered in revising the Commission's CAP Policy Statement and its regulations. By removing the term "payment troubled" from the current regulation and omitting it from the new CAP regulation, CAP participation is opened up to all low-income customers, regardless of need. This will markedly increase the number of CAP participants and, in tandem, related CAP costs. Utilities will justifiably seek to recover those costs from non-CAP customers, as authorized by the full cost recovery provisions of the statute. Non-CAP customers will experience significant rate impacts as a result of this sea change, which is contrary to the Commission's directives throughout this process that the rights of non-CAP participants be considered when revising the CAP Policy Statement and the related

regulations. For these reasons, the Commission should maintain the current “payment-troubled” criterion for CAP eligibility and related program parameters.

In conjunction, the definition of “payment troubled” also should be revised to remove the phrase “or has received a termination notice.” A customer’s receipt of a termination notice does not qualify a customer as payment troubled – there is much more involved in such a determination.

### **Timeliness of Collection Activities Is Not a Valid Basis to Deny CAP Cost Recovery**

Under Section 76.4 of its proposed regulations, the Commission has indicated that it shall “consider the timeliness of a distribution company’s collection activities [for its CAP customers] in evaluating the reasonableness of costs claimed for recovery.” The Commission has no basis to establish such a requirement where the enabling legislation unequivocally calls for full cost recovery by the utility. 66 Pa.C.S. § 2203(6).<sup>2</sup> The Commission cannot add prerequisites to cost recovery that the statute does not contain. *County of Bucks v. Pa. Pub. Util. Comm’n*, 684 A.2d 678, 682 (Pa. Cmwlth. 1996) (“the PUC, as an administrative agency created by statute, has only

---

<sup>2</sup> Section 2203(6) reads, in pertinent part:

[T]he Commission shall establish for each natural gas distribution company an appropriate nonbypassable, competitively neutral cost-recovery mechanism **which is designed to recover fully** the natural gas distribution company’s universal service and energy conservation costs over the life of these programs. 66 Pa.C.S. § 2203(6) (emphasis added). And, as Commissioners Fitzpatrick and Pizzigrilli noted in initiating the CAP Policy Statement review and the Universal Service/Energy Conservation investigation:

“In light of the growing importance of CAP programs as a social safety net, **the Commission has a duty to develop general standards for deciding whether CAP programs are “appropriately funded,” and to determine what type of cost recovery mechanism best allows utilities to “fully recover” CAP costs and other types of universal service costs.** To carry out this responsibility, the Commission should issue an order requesting comments on these issues, as well as on any other issues concerning universal service and energy conservation programs. Once the Commission receives these comments, it will consider whether to issue a statement of policy, promulgate proposed regulations, or both. The best course of action should be evaluated after the comments are reviewed.” Joint Motion of Commissioners Terrance J. Fitzpatrick and Kim Pizzigrilli at Public Meeting of November 10, 2005 (NOV-2005-C-0009\*) (emphasis supplied).

those powers expressly conferred upon it by statute”). Thus, the “timeliness of collection activities” limiter must be removed from Section 76.4 of the proposed regulations.<sup>3</sup>

## CONCLUSION

Dominion Peoples appreciates the opportunity to submit these comments on the Commission’s proposed regulations. Dominion Peoples respectfully requests that the Commission consider these Comments in promulgating regulations that will meet the needs of low-income, payment-troubled customers while at the same time allowing for full cost recovery and flexibility for utilities in managing their Universal Service, Energy Conservation and Customer Assistance Programs. Dominion Peoples has a strong history of working closely with the Commission to maintain such programs in its service area that meets the needs of low-income, payment-troubled ratepayers. Dominion Peoples will continue to pursue the goal of managing these programs in accordance with the Commission’s regulations.

Respectfully submitted,



Lillian S. Harris  
(Attorney I.D. No. 50888)  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
717-236-1300

Dated: April 18, 2008

Counsel for The Peoples Natural Gas Company  
d/b/a Dominion Peoples

---

<sup>3</sup> Furthermore, individual utilities determine on a case-by-case basis how to handle customer delinquencies. It often is a careful balance between attempting to maintain service for low income customers who have demonstrated a history of payment, but who may not be able to make full payment in a timely manner, and the pursuit of collections on past due amounts. The regulation, as currently crafted, violates the well-established prohibition against the Commission acting as a super board of directors by interfering with the management decisions of the utility. See *Metropolitan Edison Co. v. Pa. Pub. Util. Comm’n*, 437 A.2d 76, 80 (Pa. Cmwlth. 1981) (Commission should not inject itself into the internal management of a public utility).