

Philadelphia Gas Works
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November 1, 2010

VIA EXPRESS MAIL

Rosemary Chiavetta - Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RECEIVED
IRRC
2010 NOV - 1 P 12:41

Re: **Philadelphia Gas Works' Comments to the June 17, 2010 Final Rulemaking Order; Docket No. L-2008-2069115**

Dear Secretary Chiavetta:

Enclosed for filing are Philadelphia Gas Works' ("PGW") Comments to the June 17, 2010 Final Rulemaking Order. On September 30, 2010, PGW was informed by the Independent Regulatory Review Commission ("IRRC") that the IRRC plans to meet and act on the regulation set forth in the above-referenced matter at its public meeting on Thursday, November 4, 2010. The IRRC also directed that any comments should be submitted to the Pennsylvania Public Utility Commission (and the IRRC) prior to 10:00am on Tuesday, November 2, 2010.

If you have any questions, please contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory J. Stunder", is written over a printed name.

Gregory J. Stunder

Enclosure

cc: Independent Regulatory Review Commission

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

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IRRC

2010 NOV - 1 P 12: 44

Licensing Requirements For Natural Gas
Suppliers; *SEARCH Final Order and Action*
Plan: Natural Gas Supplier Issues

Docket No. L-2008-2069115

COMMENTS OF PHILADELPHIA GAS WORKS
TO THE JUNE 17, 2010 FINAL RULEMAKING ORDER

I. INTRODUCTION

In its September 11, 2008 Final Order and Action Plan regarding the Commission's *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group*¹ (*SEARCH Order*), Docket No. I-00040103F0002 (*SEARCH Order*), the Commission determined that one way to increase effective competition in the retail natural gas market is to revise the natural gas supplier licensing regulations² in regard to the level of security needed and the forms of security that could be used to satisfy the statutory security requirement for licensing. On December 8, 2008, the Pennsylvania Public Utility Commission (the "Commission") issued a Proposed Rulemaking Order setting forth the proposed revisions to the Licensing Requirements for Natural Gas Suppliers specifically relating to Bonds or Other Security at 52 Pa. Code §§ 62.111. The December 8, 2010 Order and the proposed regulations were published in the *Pennsylvania Bulletin* on April 4, 2009 (39 Pa.B. 1657) and interested parties were given sixty days, or until June 3, 2009 to file written comments. Philadelphia Gas Works ("PGW" or the "Company") provided written comments.

¹ The Stakeholders had been convened based on the Commission finding that "effective competition" did not exist in the retail natural gas market in accordance with 66 Pa.C.S. § 2204(g) (relating to investigation and report to General Assembly). See *Investigation into the Natural Gas Supply Market: Report to the General Assembly on Competition in Pennsylvania's Retail Natural Gas Supply Market*, Order entered at Docket No. I-00040103.

² Natural gas supplier licensing regulations may be found at 52 Pa. Code §§62.101-62.114.

On June 17, 2010, the Commission issued a Final Rulemaking Order that finalizes the revisions to the Commission's Natural Gas Supplier Licensing regulations. On September 30, 2010, the Independent Regulatory Review Commission informed PGW that comments to the June 17, 2010 Order should be submitted by 10:00 a.m. on November 2, 2010.

PGW provides natural gas distribution services and natural gas supply to approximately 500,000 customers in the City and County of Philadelphia. Currently, four (4) Natural Gas Suppliers ("NGS" or "licensee" or "supplier") are licensed to provide natural gas supply to PGW's transportation customers.

PGW has reviewed the June 17, 2010 Order and generally supports the Commission's revisions except for the issue discussed in the following comment.

II. COMMENT – 52 Pa.Code § 62.111(c)(2)(v)

The finalized subsection 62.111(c)(2)(v) provides the following:

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

(v) Accounts receivable pledged or assigned to a NGDC by a licensee participating in the NGDC's purchase of receivables program that has been approved by the Commission as being consistent with Commission orders, guidelines and regulations governing such programs.

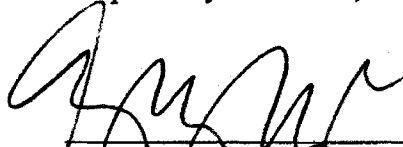
Contrary to the assumption implicit in subsection (v), a purchase of receivables ("POR") program does not provide for the pledge or assignment of accounts receivable by the licensee (i.e. NGS) to the NGDC. Rather, POR programs simply provide for the purchase of NGS receivables by the NGDC. When NGS accounts receivable are sold to the NGDC pursuant to a POR program, the accounts receivable are not pledged or assigned to the NGDC before the sale of the accounts receivable and cannot be pledged or assigned after the sale because the accounts

receivable are no longer the asset of the NGS. An asset that is not owned by the NGS cannot be assigned or pledged. Furthermore, concurrent with the Commission's Final Rulemaking Order, Vice Chairman Christy issued a statement addressing POR program accounts receivable as a form of NGS security and specifically concluded that subsection (v) should not be included in the final NGS Licensing regulations.³ Vice Chairman Christy based his conclusion on the reasons set forth in the comments submitted by the Energy Association of Pennsylvania, National Fuel Gas Distribution Company, Equitable Gas Company, PECO and PGW.⁴ For the foregoing reasons, subsection (v) should be deleted in its entirety.

III. CONCLUSION

PGW appreciates the opportunity to provide this comment to the Final Rulemaking and the Company looks forward to continue working with the Commission and other stakeholders on these critical issues. We respectfully request that the Commission delete subsection (v) from the final regulations.

Respectfully Submitted,



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Attorney for Philadelphia Gas Works

Date: November 1, 2010

³ *Licensing Requirements For Natural Gas Suppliers; SEARCH Final Order and Action Plan: Natural Gas Supplier Issues*, L-2008-2069115 (Statement of Vice Chairman Tyrone J. Christy – June 16, 2010).

⁴ *Id.*