



**THOMAS, LONG,
NIESEN & KENNARD**

Attorneys and Counsellors at Law

THOMAS T. NIESEN
Direct Dial: 717.255.7641
tniesen@ttnlaw.com

2754

June 3, 2009

HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
2009 JUN 10 PM 2:04
INDEPENDENT REGULATORY
COMMISSION

In re: Dockets Nos. L-2008-2069115 and I-00040103F0002
Licensing Requirements For Natural Gas Suppliers; *SEARCH Final Order and*
Action Plan: Natural Gas Supplier Issues

Dear Secretary McNulty:

Enclosed on behalf of Equitable Gas Company, LLC are an original and fifteen (15) copies of its Comments to the Public Utility Commission's Proposed Rulemaking Order entered December 8, 2008 in the above matter.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

Thomas T. Niesen

- cc: Patricia Krise Burket (by email w/encl.)
- Annunciata Marino (by email w/encl.)
- Cyndi Page (by email w/encl.)
- Daniel L. Frutchey, Esquire (w/encl.)
- John M. Quinn (w/encl.)

090603-McNulty (Comments).wpd

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Licensing Requirements For Natural Gas Suppliers, <i>SEARCH Final Order And Action Plan:</i>	:	Docket No. L-2008-2069115
Natural Gas Supplier Issues	:	I-00040103F0002

**EQUITABLE GAS COMPANY'S
COMMENTS TO THE PROPOSED RULEMAKING
ORDER ENTERED DECEMBER 8, 2008**

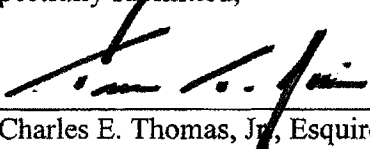
AND NOW, comes Equitable Gas Company, LLC ("Equitable" or "Company"), by its attorneys, and, submits the following Comments in accordance with the Public Utility Commission's ("Commission") Proposed Rulemaking Order ("Order") entered December 8, 2008 in the above captioned proceeding:

1. On December 8, 2008, the Commission entered an Order adopted at its Public Meeting of December 4, 2008, opening a rulemaking proceeding to consider revisions of the regulation appearing at 52 Pa. Code § 62.111 relating to the security requirements for natural gas suppliers.
2. The Order invites interested parties to submit comments on the proposed regulation set forth in Annex A to the Order.
3. Equitable is pleased to have the opportunity to comment on the Proposed Rulemaking Order at Docket No. L-2008,2069115 and I-00040103F0002. Equitable's Comments are presented in the Appendix A attached hereto for discussion purposes in response to the Commission's invitation and without prejudice to any position Equitable might take in any subsequent proceeding or proceedings involving these or any other matters. Equitable is also joining in comments being filed by the Energy Association of Pennsylvania.

WHEREFORE, Equitable Gas Company, LLC submits these Comments to the Public Utility Commission's Proposed Rulemaking Order entered December 8, 2008.

Respectfully submitted,

By



Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
THOMAS, LONG, NIESEN & KENNARD
212 Locust Street, Suite 500
P. O. Box 9500
Harrisburg, PA 17108-9500

Daniel L. Frutchey, Esquire
Chief Regulatory Officer
EQUITABLE DISTRIBUTION
225 North Shore Drive
Pittsburgh, PA 15212-5861

Attorneys for Equitable Gas Company, LLC

Date: June 3, 2009

APPENDIX A

EQUITABLE GAS COMPANY, LLC
("Equitable" or "Company")
Comments to the Public Utility Commission's
Proposed Rulemaking to Amend the Provisions of
52 Pa. Code, Chapter 62, Section 62.111

General Comment

The modifications to Section 62.111 should make it clear that the security provisions addressed in the Section apply only to those natural gas suppliers who are part of Natural Gas Choice offering service to residential customers and those small commercial and industrial customers consuming less than 300 Mcf annually. Natural gas suppliers that offer service to large commercial and industrial customers would be permitted and required to determine appropriate security with the NGDC outside of the parameters of Section 62.111.

§62.111(c)(1)(ii)(C)

Subpart (c)(1)(ii)(C) addresses circumstances where the amount of security may be adjusted. Equitable proposes that one of the acknowledged circumstances for security adjustment should be a change in the volume of gas supplied by the licensee along with a change in the number or class of customers. Equitable proposes that the first sentence of the subpart be modified to read as follows:

A significant change in the number of customers, a change in the class of customers being served by the licensee or a change in the volume of natural gas supplied by the licensee.

Equitable also proposes that a 10% threshold be identified as a volume justification for change and that the following sentence be added at the end of the subpart:

An increase of 10% in the volume of natural gas supplied by the licensee would represent a significant change that would justify an NGDC directing that additional security be provided.

§62.111(c)(2)

Equitable is concerned that accounts receivable pledged to the NGDC or sold by a supplier participating in a purchase of receivables program may not be adequate security and does not believe that accounts receivable should be permitted to serve, alone and without more, as security. Accounts receivable are discussed further below. Here, in regard to Section 62.111(c)(2), Equitable proposes that the Section be modified to read as follows:

Combination of the following legal and financial instruments and property shall be acceptable as fulfillment of some or all security requirements. Accounts receivable by themselves, however, shall not be considered acceptable.

§62.111(c)(2)(v)

As presented above, Equitable is concerned that accounts receivable pledged to the NGDC or sold by a supplier participating in a purchase of receivables program may not be adequate security and does not believe that accounts receivable should be permitted to serve, alone and without more, as security. In regard to the proposed consideration of receivables as security under a purchase of receivables program, Equitable notes as follows:

- The final rules for purchase of receivables programs have not been established. Equitable believes that, until the rules are made final, it is premature to include receivables as acceptable security.
- Currently Equitable forwards NGS receivables once per calendar month. If an NGS fails to deliver gas during a winter month, will it be acceptable for an NGDC to retain 100% of NGS receivables? The proposed regulation does not consider this possibility. Equitable believes that an NGDC should be allowed to retain 100% of NGS receivables in the event of a mid month NGS failure to deliver and receivables being considered acceptable security. The receivables would be used to satisfy the NGS obligations with the balance, if any, payable to the NGS.
- Historical failures of NGS delivery have occurred as a result of a run-up in gas prices. What if the rate negotiated by the NGS does not cover the cost of supply? As the SOLR it would become necessary to purchase gas in the market. The proposed regulation does not consider this possibility. Due to lack of security from the NGS, it would be necessary to bill the additional supply costs to the customer, and the customer would be required to sue the NGS for their negotiated rate.

§62.111(c)(4)

Subpart (c)(4) provides for the use of applicable North American Energy Standards Board forms or language in security instruments. Equitable recognizes that this subpart is intended to standardize security forms and language but the substance of the forms and language is not known and all of the pertinent forms and language cannot be reasonably known. Equitable believes that the use of the forms and language should be when practicable as recognized in the proposed rule but also in the discretion of the NGDC. Equitable proposes that the proposed subpart be modified to read as follows:

When practicable and in the NGDC's discretion, the NGDC shall use applicable North American Energy Standards Board forms or language for financial and legal instruments that are used as security.

§62.111(c)(5)

Subpart (c)(5) provides for annual reporting to the Commission. To ease the reporting burden, Equitable proposes that the preliminary paragraph of the subpart be modified to read as follows:

The NGDC shall file an annual report with the Secretary no later than April 30 of each year. However, if there are no changes from one year to the next, a letter may be submitted to the Secretary in lieu of a report. The report shall contain the following information for the prior calendar year:

§62.111(c)(6)(i)

Subpart (c)(6)(i) addresses the resolution of disputes through the appropriate Commission Bureau. Equitable believes that the NGDC should have a right of appeal to the Commission from a Bureau decision concerning NGS security and proposes that the following sentence be added at the end of the subpart:

The NGDC may appeal the decision of the Bureau to the Commission.