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RYAN, RUSSELL, OGDEN & SELTZER
A PROFESSIONAL CORPORATION

SUITE 101
800 NORTH THIRD STREET
HARRISBURG, PENNSYLVANIA 17102-2025
TELEPHONE: 717-236-7714
FACSIMILE: 717-236-7816
WWW.RYANRUSSELL.COM

August 25, 2009

WYOMISSING OFFICE
SUITE 210
1150 BERKSHIRE BOULEVARD
WYOMISSING, PENNSYLVANIA
19610-1208
TELEPHONE: 610-372-4761
FACSIMILE: 610-372-4177

VIA E-FILING

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 North Street - 2nd Floor
Commonwealth Keystone Building
Harrisburg, Pennsylvania 17120

Re: Natural Gas Distribution Companies and the Promotion of
Competitive Retail Markets, Docket Nos. L-2008-2069114

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INDEPENDENT REGULATORY
COMMISSION

Dear Secretary McNulty:

Enclosed is a copy of Direct Energy Services, LLC ("Direct") comments to the Proposed Rulemaking Order issued by the Pennsylvania Public Utility Commission on March 27, 2009 in the above-captioned proceeding. Copies of this document have been served in accordance with the attached Certificate of Service.

Very truly yours,



Matthew A. Totino

Enclosures
MAT:ck

- c. Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Natural Gas Distribution Companies and the : Docket No. L-2008-2069114
Promotion of Competitive Retail Markets :

**Comments of Direct Energy Services, LLC
to Proposed Rulemaking Order**

Direct Energy Services, LLC ("Direct")¹ submits these comments to the Proposed Rulemaking Order ("Order") issued by the Pennsylvania Public Utility Commission ("Commission") on March 27, 2009 in the above-captioned docket. The Order provides that any written comments to the proposed rulemaking are to be submitted within 45 days of publication in the Pennsylvania Bulletin. The Order was published in the Pennsylvania Bulletin on July 11, 2009.

I. Introduction

The Order arose out of the Commission's stakeholder process known as SEARCH, which was established to explore avenues for increasing competition in Pennsylvania's retail natural gas supply service market.² The Stakeholders were directed to examine issues that are relevant to the retail natural gas supply service competitive market and to develop recommendations regarding changes in market structure and

¹ Direct is a licensed natural gas supplier in Pennsylvania.

² Pursuant to Section 2204(g) of the Public Utility Code, 66 Pa. C.S. § 2204(g), the Commission was required to determine whether "effective competition" existed within the natural gas market in Pennsylvania. By order entered on October 6, 2005, the Commission concluded that "effective competition" did not exist in Pennsylvania's natural gas market. *See Investigation into the Natural Gas Supply Market; Report to the General Assembly on Competition in Pennsylvania's Retail Gas Market*, Docket No. I-00040103. The Stakeholders Exploring Avenues for Removing Competition Hurdles proceeding or "SEARCH" was convened in response to this finding.

operation, including any necessary amendments to the Public Utility Code ("Code") and the Commission's regulations.

The SEARCH process culminated in a Final Order and Action Plan ("SEARCH Final Order"). In the SEARCH Final Order, the Commission concluded, among other things, that there were a number of steps that needed to be taken to help promote the development of competition in the retail markets for natural gas supply in Pennsylvania. One of the three areas that the Commission identified as appropriate to commence a rulemaking with the goal of nurturing a robust retail natural gas supply market was the relationship of Natural Gas Distribution Companies ("NGDCs") to the retail market for natural gas supply.

At the public meeting of March 26, 2009, the Commission adopted the Order, which addresses five issues relating to the obligations, rights, and duties of NGDCs: (1) Reformation of the Price to Compare; (2) Purchase of Receivables ("POR") Programs; (3) Mandatory Capacity Assignment; (4) NGDC Cost of Competition-related Activities; and (5) Regulatory Assessments.

Direct appreciates this opportunity to provide written comments in this important rulemaking, including comments on the proposed POR regulations. As found by the Commission in its *SEARCH* Final Order, POR programs are critical to **immediately** increasing supplier participation, and in turn, effective competition in Pennsylvania's retail natural gas market. Direct commends the Commission for its ongoing effort to achieve effective competition in the natural gas market and to provide interested parties with a meaningful opportunity to participate in the process through such vehicles as this rulemaking.

As discussed in more detail below, Direct supports the proposed POR regulations to be added as Section 62.224 to the Commission's regulations, with the proposed modification below:

II. Specific Comments

Proposed Section 62.221-23

Direct has no comments regarding these subsections.

Proposed Direct Revision to Section 62.224

The Commission proposes to add a new section to its regulations – Section 62.224 – to make permanent rules for the establishment of POR programs. As noted by the Commission, the proposed permanent rules are very similar to the POR interim guidelines that are currently in effect. Direct agrees with the Commission that regulations are needed to establish permanent rules governing POR programs. Direct agrees with the Commission's assessment in its SEARCH Final Order that POR programs can promote efficiencies, reduce costs to consumers and reduce barriers to entry faced by alternative Natural Gas Suppliers ("NGSs"). Direct further agrees that POR programs are critical to immediately increasing supplier participation, and in turn, effective competition in Pennsylvania's retail natural gas market.

Of note, the existence or non-existence of a POR program is an extremely important factor that an NGS will consider in deciding whether to commit to offering service in an NGDC's service territory, especially with respect to the residential/small commercial customer market. In fact, for some NGS seeking to serve a market, the availability of a POR program is the single most important factor in determining whether to offer service in a particular NGDC service territory.

Direct proposes a modification to the proposed POR regulations concerning the discount rate. Under the proposed regulation, the NGDCs and NGSs are required to negotiate the parameters of the discount rate with respect to the purchased receivables. Direct believes that more certainty is needed governing the calculation of the discount rate. Therefore, Direct proposes that the Commission add the following language to Section 62.224(a)(3):

Unless otherwise mutually agreed to by the NGDC and NGS, the discount rate shall equal: (i) the percentage of uncollectible expense currently included in the Price to Compare for unbundled gas supply as part of the NGDC's supplier of last resort service or, if the gas supply uncollectible expense of the NGDC is not unbundled, a percentage reflecting the NGDC's actual uncollectible expense for the prior calendar year plus (ii) a component to recover the incremental costs with POR program development, implementation, and administration. Once an NGDC has recovered its start up incremental costs to develop and implement its POR, the discount rate shall recover only ongoing incremental costs to administer the POR program.

This modification is necessary to ensure that NGDCs purchasing NGS receivables are fairly compensated for the risks associated with uncollectible expense and fully recover their incremental administrative costs, while, at the same time, the modification provides NGSs with a level of certainty as to what the discount rate may be. In addition, this proposed modification is necessary to prevent the NGDCs from over recovering through the discount rate by ensuring that the NGDCs will not recover POR start-up costs once they have been fully recovered.

Proposed Section 62.225

Direct has no comments regarding this section.

Proposed Section 62.226

Direct has no comments regarding this section.

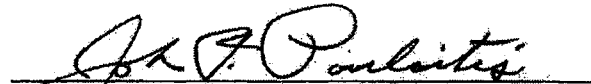
Proposed Section 62.227

Direct has no comments regarding this section.

III. Conclusion

Direct applauds the Commission's efforts in this rulemaking to promote robust competition in the retail natural gas supply market through such means as permanent rules governing POR programs. Therefore, Direct supports Section 62.224 with its proposed modification on the discount issue.

Dated: August 25, 2009


John F. Povilaitis
Matthew A. Totino
RYAN, RUSSELL, OGDEN & SELTZER P.C.
800 North Third Street, Suite 101
Harrisburg, Pennsylvania 17101-20205
(717)236-7714

Attorneys for Direct Energy Services, LLC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Natural Gas Distribution Companies and :
The Promotion of Competitive Retail Markets : Docket No. L-2008-2069114

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the relevant documents in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

VIA FIRST CLASS MAIL

Robert Blake, Vice President
Regulatory Affairs
MXenergy
10010 Junction Drive, Suite 104-S
Annapolis Junction, Maryland 20701

Sandra Minich Guthorn
Manager
PEPCO Energy Services
1300 North 17th Street
Suite 1600
Arlington, Virginia 22209

Lillian Harris, Esquire
William Hawke, Esquire
Hawke McKeon Sniscak & Kennard
LLP
100 North Tenth Street
Harrisburg, PA 17105

Debra H. Rednik, Esquire
Marissa Bach, Esquire
Hess Corporation
One Hess Plaza
Woodbridge, New Jersey 07095

James Mullins, Esquire
Tanya J. McCloskey, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Building
Harrisburg, PA 17101

The Mack Services Group
P.O. Box 557
Berwyn, PA 19312

Mark C. Morrow, Esquire
UGI Utilities Inc. – Gas Division
460 N. Gulph Road
King of Prussia, PA 19406

Patricia Krise Burkett, Esquire
Assistant Counsel
Pennsylvania Public Utility Commission
400 North Street – 3rd Floor
Commonwealth Keystone Building
Harrisburg, PA 17120

Donna Clark, Esquire
Energy Association of Pennsylvania
800 North Third Street, Suite 301
Harrisburg, PA 17102

Irwin A. Popowsky, Esquire
Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Building
Harrisburg, PA 17101

Todd S. Stewart, Esquire
Hawke McKeon Sniscak & Kennard
LLP
Harrisburg, PA 17105

Daniel Frutchey, Esquire
Equitable Gas Company
225 North Shore Drive
Pittsburgh, PA 15212

Jay W. Dawson
T.W. Phillips Gas and Oil Company
205 North Main Street
Butler, PA 16001

Lee E. Hartz
Natural Fuel Gas Distribution Company
P.O. Box 2001
Erie, PA 15212

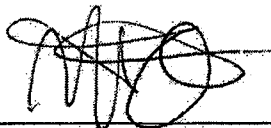
Tim Merrill
General Manager
NRG Energy Center
111 South Commons
Pittsburgh, PA 15212

Michael W. Gang, Esquire
Michael W. Hassell, Esquire
Andrew S. Tubbs, Esquire
Post & Schell P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101

Charles E. Thomas, Jr.
Thomas Thomas Niesen & Kennard LLP
212 Locust Street
Harrisburg, PA 17108

Gregory Stunder, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122

Dated: August 25, 2009



Matthew A. Totino
RYAN, RUSSELL, OGDEN & SELTZER P.C.
800 North Third Street, Suite 101
Harrisburg, PA 17102-2025
Phone: (717) 236-7714
Fax: (717) 236-7816
Email: MTotino@RyanRussell.com