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December 1, 2009

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

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2009 DEC - 9 AM 12:39
INDEPENDENT REGULATORY
REVIEW COMMISSION

**RE: COMMENTS of THE ENERGY ASSOCIATION of PENNSYLVANIA
on the PROPOSED RULEMAKING: NATURAL GAS DISTRIBUTION
COMPANY BUSINESS PRACTICES
DOCKET NO. L-2009-2069117**

**S.E.A.R.C.H. FINAL ORDER AND ACTION PLAN FOR INCREASING
EFFECTIVE COMPETITION IN PENNSYLVANIA'S RETAIL NATURAL GAS
SUPPLY SERVICES MARKET
DOCKET NO. I-00040103F0002**

Dear Secretary McNulty:

Enclosed for filing are an original and 15 copies of the Association's Comments on behalf of its natural gas distribution company members in the above-referenced dockets.

Sincerely,

Donna M. J. Clark
Vice President and General Counsel

Enclosures

- CC: James H. Cawley, Chairman (w/ enclosure via hand-delivery)
- Tyrone J. Christy, Vice Chairman (w/ enclosure via hand-delivery)
- Robert F. Powelson, Commissioner (w/ enclosure via hand-delivery)
- Kim Pizzingrilli, Commissioner (w/ enclosure via hand-delivery)
- Wayne E. Gardner, Commissioner (w/ enclosure via hand-delivery)
- Patricia Krise Burket, Esq. (pburket@state.pa.us)
- Annunciata Marino (annmarino@state.pa.us)
- Cyndi Page (cypage@state.pa.us)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

2009 DEC -6 AM 10:39

Proposed Rulemaking: Natural Gas
Distribution Company Business Practices;
52 Pa.Code §§62.181 – 62.185

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Docket No. L-2009-2069117

INDEPENDENT REGULATORY
REVIEW COMMISSION

S.E.A.R.C.H. Final Order and Action Plan for
Increasing Effective Competition in
Pennsylvania's Retail Natural Gas Supply
Services Market

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Docket No. I-00040103F0002

COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA

to

Proposed Rulemaking Order

PA PUC
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I. Introduction

On May 1, 2009, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) entered a Proposed Rulemaking Order “to revise and, when feasible, to standardize natural gas distribution company (“NGDC”) business practices, operating rules and supplier coordination tariffs.” Order at p. 2. The Order which was published in the October 17, 2009 edition of the Pennsylvania Bulletin, provided that comments were due forty-five days after publication in the Bulletin (December 1, 2009), with Reply Comments due fifteen days after the end date for filing comments (December 16, 2009). The Energy Association of Pennsylvania

("EAPA" or "Association") submits these comments and suggested revisions on behalf of its member natural gas distribution companies.¹

In its Order, the Commission issued for comment proposed regulations that, among other things, "direct NGDCs to submit standard supplier coordination tariffs (SCTs), and to implement standard business practices and communication standards and formats that the Commission determines to be cost-effective and that remove market barriers. The proposed regulations also provide for NGDC recovery of reasonable costs prudently incurred directly attributable to the implementation." Order at p. 2.

Further, in its Order, the Commission announced its intent to initiate a stakeholder process to run concurrently with the rulemaking as an additional avenue for public input. Notably, the PUC provided that the stakeholder group would develop a standard SCT and make recommendations for adoption of standard business practices for the retail natural gas market through the use of a strawman proposal. Order at pp. 2 and 7-8. The strawman proposal was to be subject to comments and reply comments, to be followed by a technical conference and to be completed by August 1, 2009. Order at p. 8.

The stakeholder group was given the additional task of establishing a plan for the implementation of electronic data communication standards and formats. Order at pp. 10 and 12. In turn, the electronic data communication standards and formats were to be established through a separate working group of technical experts led by Commission staff. Mandatory participation in the working group for NGDCs was ordered. See Order at p. 9.

¹ The Association's natural gas distribution company members include Columbia Gas of Pa., The Peoples Natural Gas Company d/b/a Dominion Peoples, Equitable Gas, National Fuel Gas Distribution corp., PECO Energy Company, Philadelphia Gas Works and UGI Utilities, Inc.

Vice Chairperson Christy highlighted the stakeholder process in a Statement issued with the Order in May of 2009 and sought additional comment on the “potential cost ramifications” for a number of the proposed changes in operational rules and practices. Vice Chairperson Christy stated:

[a]lternative gas suppliers have a significant hurdle here to demonstrate that savings are possible with retail natural gas choice in the residential sector, particularly when the NGDCs are required by statute to procure their gas supply under a Commission approved least cost procurement standard with no provision for a profit on that cost. While both NGDCs and alternative suppliers generally obtain natural gas from the same market, alternative suppliers must earn a profit on that gas—otherwise they would not be in business. The alternative suppliers must find enough efficiencies somewhere in their gas procurement practices to earn a profit while undercutting what has been blessed as a least cost gas procurement by the NGDC.

Statement by Vice Chairperson Christy at p. 2.

The Commission’s decision to utilize a stakeholder process is a key component in this rulemaking, particularly given the complexity of developing a standard SCT and the need to first discuss and recommend to the Commission standard business practices prior to NGDC implementation. The Association and its members urge the Commission to move forward and initiate both the stakeholder process and the working group tasked with establishing electronic data communication standards and formats. Resolution of the issues and tasks assigned to these two groups should be completed to fully analyze the benefits and costs associated with the instant proposed rulemaking. The question posed by Vice Chairperson Christy of whether the additional cost recoverable by NGDCs to standardize supplier tariffs, business practices and communication standards and formats is justifiable in light of the potential cost savings attributable to choice should be addressed. The Association and its members contend that it is

the work of the contemplated stakeholder process and the technical working group which will ultimately provide information to complete the cost/benefit analysis requested by the Vice Chairperson.

Additionally, the Association reiterates its contention that both the S.E.A.R.C.H. investigation and the rulemakings required under the September 2008 Final S.E.A.R.C.H. Order and Action Plan should distinguish between larger customer transportation and services rendered to suppliers serving small customers (commercial and residential) new to the concept of choice. Larger volume customers have received transportation service and procured their own upstream supply, often with the assistance of marketers, since the 1970's.

Given the maturity and longevity of the large customer market, their current needs are distinct from those of small commercial and residential customers entering the market for the first time through joining marketer established aggregation pools. The differences between these markets and the different obligations of NGDCs with regard to these markets will likely be discussed, analyzed and clarified during the course of the Commission initiated stakeholder process and technical working group.

The Association applauds the Commission's decision to utilize a stakeholder process/technical working group and requests the completion of both these processes prior to finalizing the instant rulemaking.

II. Comments to Specific Proposed Regulations

Turning to the specific proposed regulations, the Association notes that a number of its individual NGDC members will also file comments to the instant proposed rulemaking. None of the Association's comments or suggestions should be read or interpreted to contradict with the

comments of its individual NGDC members. Moreover, the Association retains its right to offer Reply Comments in this rulemaking.

A. §62.181 General

The first sentence of the proffered regulation should be removed as superfluous. It states a policy or opinion which is not a proper function of a regulation.

B. §62.182 Definitions

A number of the proposed definitions are overly broad and vague, in need of clarification and/or contradict standard definitions used in the industry and on the federal level. Further, there are a few terms or concepts used in the rulemaking which require definition, such as “Evening cycle” in the context of NAESB nomination cycles. The Association would direct the Commission to the submissions of its members regarding further comment or specific definitions contained in proposed §62.182.

C. §62.183 NGDC Customer Choice System Operations Plan

The Association offers two general comments: (1) it appears critical that the work of the stakeholder process and technical working group be completed prior to submittal of a Customer Choice Systems Operation Plan; and (2) the regulation needs to detail how such a plan would be approved and subsequently modified. Requiring routine changes to be processed as if they were tariff changes appears inefficient in terms of time and cost.

D. §62.184 NGDC Cost Recovery

The process established in the proposed regulation to utilize the 1307(f) proceeding seems unnecessarily convoluted with the potential to complicate this annual proceeding as well as increase its costs. The proposed regulatory language essentially requires the establishment of

a base rate surcharge in the context of a proceeding which adheres to a statutorily abbreviated schedule. Further, §62.184(a) implies that the NDGC “may” include a surcharge while §62.184(b) provides that the surcharge “shall” be calculated annually and adjusted to account for past over-or-under collections. At a minimum, implementation of the surcharge for cost recovery should be a voluntary decision made by each NGDC.

The Association asks the Commission to reconsider whether inclusion of the recovery surcharge contemplated must be decided in the context of a 1307(f) proceeding or whether a separate periodic proceeding would offer a more focused and streamlined means of approving a cost recovery mechanism if requested by a NGDC under these rules.

E. §62.185 Supplier Coordination Tariffs, Business Practices and Standards

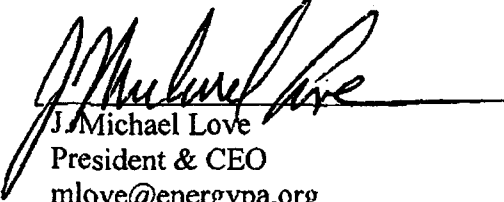
The Association reserves its right to offer reply comments to this section and directs the Commission to comments filed by its individual NGDC members. EAPA does note that a number of issues raised by this proposed regulatory section will be examined and considered in the stakeholder process and the technical working group (see, e.g., §62.185(d)). Those processes will provide for broader discussion, recommendations and comments. The Association welcomes the opportunity to participate in those processes and to offer comments to the proposed strawman and at the contemplated technical conference.

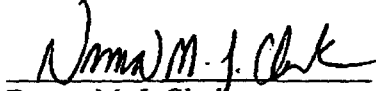
III. Conclusion

The Association and its members recognize the benefits of standardizing NGDC business practices, operating rules and supplier coordination tariffs, when feasible. The Commission Order essentially assigned the feasibility question to a stakeholder process and technical working group. Those processes whereby stakeholders will work collaboratively to recommend standard practices, rules, supplier coordination tariffs and communication standards and formats should be

completed prior to finalization of the instant rulemaking. The Association urges the Commission to initiate this process in the first quarter of 2010.

Respectfully Submitted,


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Date: December 1, 2009