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December 1, 2009

VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

RE: Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code §§ 62.181-62.185, Docket No. L-2009-2069117; **COMMENTS OF INTERSTATE GAS SUPPLY, DOMINION RETAIL, INC. AND SHIPLEY ENERGY COMPANY TO PROPOSED RULEMAKING ORDER**

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and fifteen (15) copies of the Comments of Interstate Gas Supply, Dominion Retail, Inc. and Shipley Energy Company to the Proposed Rulemaking Order of the Commission in the above-captioned matter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Todd S. Stewart
Counsel for Interstate Gas Supply, Dominion Retail, Inc. and Shipley Energy Company

TSS/bks
Enclosure
cc: Honorable James H. Cawley, Chairman
Honorable Tyrone J. Christy, Vice Chairman
Honorable Kim Pizzingrilli, Commissioner
Honorable Wayne E. Gardner, Commissioner
Honorable Robert F. Powelson, Commissioner
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code §§ 62.181-62.185	: : :	Docket No. L-2009-2069117

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PA PUC SECRETARY'S BUREAU

COMMENTS

Interstate Gas Supply ("IGS"), Dominion Retail, Inc. ("Dominion Retail") and Shipley Energy Company ("Shipley") (collectively "Suppliers") hereby submit their Comments to the above-captioned Proposed Rulemaking Order ("Proposed Rulemaking") of the Pennsylvania Public Utility Commission ("Commission"), as published in the *Pennsylvania Bulletin* on October 17, 2009 (39 Pa. B. 6078).

Introduction

The overarching purpose of the Proposed Rulemaking is to bring a semblance of uniformity to the business practices of major natural gas distribution companies ("NGDCs") in Pennsylvania. In doing so, the Commission provides for the creation of a "straw man" Supplier Coordination Tariff ("SCT"), and sets out some specific requirements for those SCTs, including: imbalance trading, tolerance bands for delivery obligations, cash-out rules, nominations and access to capacity. These items are but a few of the items from a larger list contained in the Commission's September 11, 2008, Final SEARCH Order and Action Plan ("*Action Plan*").[1] Other elements of the *Action Plan* have been the subject of separate Orders.[2]

[1] *SEARCH Final Order and Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Markets*; Docket No. I-00040103F0002 (entered September 11, 2008).
[2] *See, e.g., Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets*; Docket No.: L-2008-2069114 (Order entered March 27, 2009).

The Suppliers support the Commission's continued efforts to expand competitive markets into areas where there is currently little or no competition and to enhance competition in those markets that are already more viable, and believe that the Commission's efforts to standardize and improve business practices will aid in that effort. The Suppliers submit, however, that the effort to standardize SCTs across Pennsylvania may consume significant time and resources. While the Suppliers are anxious to implement all of the outstanding rulemaking proposals, they are concerned that having too many proceedings ongoing at the same time may stretch resources resulting in delayed implementation of all rulemaking proposals.

Accordingly, the Suppliers suggest that a prioritization and timeline be developed for implementation of all of the items in all open rulemaking proceedings concerning natural gas competition, and establish milestone dates for completion of the various elements of the overall implementation process in a timely fashion.

Business Practices

Standardizing business practices among Pennsylvania's NGDCs is an opportunity to implement the "best practices" across the state, and, potentially, across the nation. In that spirit the Suppliers offer the following specific comments to the Proposed Rulemaking.

§ 62.181 – General.

The Suppliers agree, as a general matter, that standardized operational rules and SCTs will allow them to operate more efficiently across NGDC territories. The Suppliers recognize, however, that there will inevitably be some elements of those practices and tariffs that will be tied directly to specific operational requirements of individual NGDCs which will cost more to implement than the benefit to be returned. Accordingly, the Suppliers do not wish to be viewed as urging standardization for its own sake, but rather, only where it makes operational sense to do so.

§62.182 – Definitions.

The Suppliers do not have any concerns with the definitions in the Proposed Rulemaking.

§62.183 – NGDC Customer Choice System Operations Plan.

The Suppliers support the requirement that each NGDC file an operations plan and agree that the elements listed in the Proposed Rulemaking appear to include the universe of the documents that each NGS operating in an NGDC territory should need. The Suppliers would suggest that in addition to the list of parties to be served in subsection (b), that NGDCs provide the Plan to new applicants in their service territory upon receipt of the service of an application. It would be rather simple to provide the document in electronic form as a matter of course and would greatly aid new entrants in learning an NGDC's rules.

§ 62.184 – NGDC Cost Recovery.

The Suppliers agree that to the extent that NGDCs incur costs to implement system changes to accommodate competition that the NGDC should be permitted to recover those dollars from all customers, since all customer benefit. Accordingly, the Suppliers have no objection to the recovery mechanism in the Proposed Rulemaking. The Suppliers do believe, however, that for the items addressed in the Proposed Rulemaking, the costs should be mostly limited to one-time systems changes and that there should be no ongoing operational "costs." To the contrary, the requirements listed in § 62.185 will increase efficiency in the market and will lower costs of operation. For example, allowing NGSs to trade imbalances will allow the system to be "balanced" without the need to issue a bill for a shortfall of gas and to "sell" excess deliveries. Both of these transactions require NGDCs to expend resources today. With the adoption of the proposals below, such transactions should be largely obviated, along with their costs. This is only a single example of the potential for cost savings that will occur as a result of efficiency, there are other examples as well.

§62.185 – Supplier Coordination Tariff, Business Practices and Standards.

(a) General. As discussed above, the Suppliers support the implementation of standardized SCTs and business practices.

(b) Supplier Coordination Tariff. The Suppliers support the creation of a standard SCT but suggest that it may be neither practical nor possible to create a uniform SCT that could be implemented in its entirety across all NGDC service territories without some variance. Otherwise, the Suppliers support this section and agree that it will aid them in operating efficiently across multiple NGDC territories.

(c) Business Practices and Standards. The Suppliers agree that implementing consistent, if not identical, business practices and standards across the Commonwealth will aid efficiency by reducing the potential for errors and by reducing the need for multiple processes. Accordingly, they support the proposed new standards and practices. The newly proposed standards will be addressed individually below.

Imbalance Trading. The Suppliers support the implementation of imbalance trading, both between a supplier's separate pools and also between suppliers. Allowing for trading of imbalances will eliminate the inefficiencies that come with multiple pools or suppliers being settled separately at the end of the month as opposed to being netted, where possible, before being settled. An NGDC's interest is to ensure that the total amount of gas delivered to its system is the same as the amount of gas used. Imbalance trading allows that result in a more efficient manner.

Tolerance Bands. The Suppliers support the implementation of tolerance bands of +/- 10 %. Under ordinary operating conditions, such a tolerance should not pose any operational issues for NGDCs and will eliminate the potential for penalties in many situations where there is no fault to be remedied.

Cashout and Penalties. The Suppliers agree with the proposed structure of the cashout mechanism, including the addition of a multiplier for balances outside the tolerance bands. However, the Suppliers suggest that rather than using the gas daily average for the base cashout rate, it would be more appropriate to use a first-of-month index. Such a rate is more readily knowable and is less subject to question after the fact.

Requiring that cashouts and penalties be market based will eliminate what in many cases are arbitrary and highly punitive mechanisms that are in place in several NGDC territories. In many cases, NGDCs have claimed that without steep penalty provisions, NGSs will have an incentive to arbitrage, that is to deliver gas to a market that has a potentially higher price while defaulting on an obligation to deliver gas to a separate market where the price is lower. Yet since the advent of natural gas competition there has been no evidence of this type of arbitrage. The reason is simple--arbitrage is a short term strategy. Suppliers who invest in acquiring and serving customers will not readily throw those customers away for the potential of a short-term profit that could result in its inability to continue to serve customers. Accordingly, the Suppliers welcome this proposed change.

Nominations. The Suppliers support the notion that eventually they will be able to take advantage of a broader range of nomination opportunities. It is quite likely that NGDCs currently employ these various cycles in their provision of supplier of last resort, or default, service. It is then a matter of fairness and operational efficiency that NGSs be provided the same level of flexibility.

Capacity. As a general rule, the NGSs believe that the greatest competitive efficiency exists when NGSs have equal access to all utility capacity resources. For this reason, we support the Commission's concept of creating a general standard which will allow the unique nature of each utility market to be addressed on a case-by-case basis.

As recently as June 2009, the NGSs advocated for what they called the "equitable share" proposal, whereby NGSs that serve customers on systems that require upstream delivery according to a heat sensitive demand curve are allocated a "slice of the system" (pipeline and storage capacity) for each customer served.[3] In such cases, unless NGDCs are releasing assets on an NGS market share basis, this slice of the system assignment of capacity that follows the customer is the best way to ensure fair and non-discriminatory markets. Assignment also reduces the potential for stranded costs on the part of the NGDC, and can eliminate other potential expense associated with the utility carrying non-productive assets.

This approach would require that NGDCs retain a minimal level of resources to balance their systems. To encourage full transparency and equity throughout the market, individual NGDCs that believed they had a valid reason to retain a greater level of upstream assets should provide equal access to NGSs in a way that maintains competitive neutrality.

At the same time, there are utility systems where NGDCs do not require NGSs to deliver to a heat sensitive demand curve, instead requiring a form of equal upstream delivery (such as 1/365th of expected annual load on a daily basis). Recognizing that these protocols may in fact work well on selected utilities, NGSs believe that so long as such programs are accompanied by

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[3] *See, e.g.*, Joint Comments of Shipley Energy Company, Interstate Gas Supply, Inc. and Dominion Retail, Inc. to Proposed Rulemaking Order, filed at, *Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets*; Docket No.: L-2008-2069114 (Order entered March 27, 2009).

market priced capacity assets which are sufficient for the NGS's delivery requirements, these requirements can be viewed as meeting the intent of the proposed regulations. It is critically important, however, that any such determination be made on a case-by-case basis.

In our view, actual market participants are in the best position to make recommendations on whether such existing programs are acceptable. Accordingly, the NGSs would strongly urge the Commission to consider the input of active market participants when considering the development or continuation of any utility-specific capacity assignment program. As such, we believe that the proposed regulations should be revised to provide a mechanism for market participant input as part of any changes.

In conclusion, the Suppliers believe that a one-size solution on capacity release is not possible. We urge the Commission to consider application of the capacity requirements with a flexible approach, and we look forward to actively participating in those discussions to help ensure a balance between reliability and competitive neutrality.

Communication Standards and Formats. The Suppliers agree that the development of standard electronic interaction formats will increase efficiency, reduce the potential for human error and generally reduce operational costs for all parties involved and accordingly they support this aspect of the Proposed Rulemaking. However, as with other aspects of the Proposed Rulemaking, the effort to develop standardized electronic transaction systems potentially will consume a vast amount of time and resources. The Suppliers do not want such an effort to impede the implementation of other aspects of this and other rulemaking efforts and urge the Commission to allow the proposals to move ahead on their own tracks so that no single item can hold back the rest.

Response to Vice Chairman Christy

In his Statement issued simultaneously with the Proposed Rulemaking, Vice Chairman Christy raised concerns over the potential costs of implementing the requirements of this Order. The Suppliers appreciate the concern. However, they believe that the costs that may result from implementation of procedures that will level and standardize the playing field will benefit all customers by allowing for fair competition that will allow NGS prices to serve as a control on default service pricing. Accordingly, the Suppliers believe that it is appropriate to collect those costs from all customers in the same way that an upgrade to an NGDC billing system to allow for any needed change, is chargeable to all customers. At the same time, however, the Suppliers do not believe that the costs will be significant. Rather, the costs should be a one time system change cost, not ongoing operational costs. In some cases, it is quite possible that NGDCs will save money as a result of the changes. In short, the Suppliers appreciate the Vice Chairman's concern for ratepayers, since those ratepayers are their customers as well. However, the proposed changes are not of the type that should cause significant concern.

Conclusion

The Suppliers wish to thank the Commission for its continued efforts to promote effective competition in Pennsylvania's retail natural gas marketplace. Such efforts pay dividends for customers by providing them with viable options for their natural gas supply that may include discount pricing, long-term stable pricing or more market-sensitive variable pricing. By making the effort to standardize and improve operating requirements, operations for both

NGDCs and NGSs can be simplified, eventually driving down costs and providing even greater benefits to customers. Accordingly, the Suppliers ask the Commission to consider their comments as part of its efforts to bring these benefits to customers.

Respectfully submitted,

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Dated: December 1, 2009