

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into the Natural Gas Supply :
Market: Report to the General Assembly : Docket Nos. I-00040103
On Competition in Pennsylvania's Retail : I-00040103F0002
Natural Gas Supply Market :

**Response of the Office of Small Business Advocate
to the January 20, 2006, Notice Regarding the
Natural Gas Stakeholders Working Group**

I. INTRODUCTION

By Order entered October 6, 2005, the Pennsylvania Public Utility Commission (“Commission”) issued its Report to the General Assembly (“Report”) regarding competition in the retail natural gas supply services market. Based on its determination that there is not “effective competition” on a statewide basis, the Commission indicated that stakeholders would be convened to explore avenues, including legislative, to increase competition.

By Secretarial Letter dated December 30, 2005, the Commission stated its intention to utilize a stakeholder working group and subgroups to address issues raised in the Report.

By Notice dated January 20, 2006, the Commission provided a list of issues tentatively assigned to the working group or to subgroups. The Commission also requested that each stakeholder file a notice to participate in the working group and identify its specific representative(s) participating in the working group and each subgroup. In addition, the Commission requested that each stakeholder identify Commission proceedings (presumably related to natural gas) in which the stakeholder is

involved. Finally, the Commission indicated that a stakeholder will be required to sign a waiver of “objections to the subsequent deliberation and vote on any issues, subsequent petitions, settlements or any further proceedings that result from the Stakeholder Working Group process by the participation of specific Commissioners and Commission staff members participating in the Working Group process.”

In accordance with the January 20, 2006, Notice, the Office of Small Business Advocate (“OSBA”) offers the following Response.

II. PENDING AND ANTICIPATED PROCEEDINGS

Under Section 5(a) of the act of December 21, 1988 (P. L. 1871, No. 181), known as the Small Business Advocate Act, 73 P.S. § 399.45(a), the Small Business Advocate is authorized and directed “to represent the interest of small business consumers as a party, or otherwise participate for the purpose of representing an interest of small business consumers before the commission in any matter properly before the commission.”

In fulfilling its statutory obligation, the OSBA is currently involved in numerous Commission proceedings which raise legal issues which appear to be the same, or substantially the same, as issues the Commission has assigned to the working group or particular subgroups. The OSBA anticipates entering future proceedings which also will raise such issues.

Set forth below is a list of the current gas-related proceedings in which the OSBA is participating:

1. The OSBA is a party in the following proceedings involving “interim” changes in Purchased Gas Cost rates: Columbia, P-00062200; UGI, P-00062201; and PG Energy, P-00062202. The OSBA was a party in PGW’s

“interim” change at R-00050264. These proceedings, and any other “interim” change cases which may be filed, raise legal questions which the Commission apparently intends to consider as part of the working group process.

2. The OSBA is a party to Columbia’s PPS/OSS proceeding at R-00049783. That proceeding has triggered intense debate about the extent to which a natural gas distribution company (“NGDC”) should be offering “competitive” services.
3. The OSBA not only expects to enter all of the 2006 Section 1307(f) cases but notes that the Commission has not yet entered final orders in the 2005 Section 1307(f) cases of Dominion Peoples and Equitable. Therefore, it is possible that either, or both, of those proceedings will result in further Petitions for Reconsideration or in appeals to Commonwealth Court. Significantly, the Dominion Peoples and Equitable 2005 cases raise issues regarding NGDC-on-NGDC competition. In addition, Section 1307(f) proceedings, by their nature, may involve questions about the allocation of transportation, storage, and commodity costs between sales and shopping customers.
4. The OSBA is a party in the following active universal service proceedings: Dominion Peoples, P-00052196 and R-00051093; PG Energy, M-00001326; and the Commission’s generic proceeding on the funding of Customer Assistance Programs, M-00051923. The OSBA also expects to be a party in future proceedings which propose to make small business ratepayers responsible for funding universal service programs.

5. The OSBA is a party in miscellaneous PGW cases, P-00052141, P-00052152, and 1673 CD 2005.
6. The OSBA expects to become a party in the base rate case to be filed by T. W. Phillips and in any other base rate cases which are filed by NGDCs.

III. OSBA's INABILITY TO SIGN THE WAIVER

The OSBA recognizes the importance of the gas stakeholder process. However, the OSBA has two serious concerns.

First, the OSBA simply does not have enough personnel to participate actively in the working group and the various subgroups. Consequently, even if the OSBA were to participate to some extent, it is likely that issues raised in one or more of the aforementioned cases would be addressed at meetings the OSBA would be unable to attend.

Second, the OSBA appreciates the dilemma created for the Commission by the potential conflict between due process and the duties assigned by 66 Pa. C.S. § 2204(g). However, the OSBA believes that the issues which have arisen, or may arise, in the aforementioned cases must be decided in on-the-record proceedings and not in an informal working group setting in which the OSBA, if represented at all, may be woefully outnumbered.

IV. CONCLUSION

In view of the foregoing, the OSBA is unwilling to sign the waiver contemplated by the January 20, 2006, Notice. Consequently, the OSBA recognizes that, under the rules set by the Commission, the OSBA will not be able to participate in the working group and subgroups.

Respectfully submitted,

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