

**H**awke  
 **M**ckeon  
  **S**niscak &  
   **K**ennard LLP  
ATTORNEYS AT LAW

William T. Hawke  
Kevin J. McKeon  
Thomas J. Sniscak  
Norman James Kennard  
Lillian Smith Harris  
Scott T. Wyland  
Todd S. Stewart  
Craig R. Burgraff  
Steven D. Snyder  
Janet L. Miller  
Steven K. Haas  
William E. Lehman  
Rikardo J. Hull  
Katherine E. Lovette

---

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

February 17, 2006

**VIA HAND DELIVERY**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

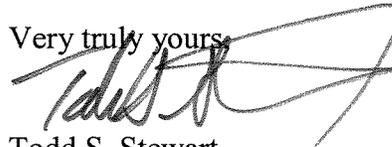
RE: Investigation into the Natural Gas Supply Market: Report to the General Assembly On Competition in Pennsylvania's Retail Natural Gas Supply Market: Docket Nos. I-00040103, I-00040103 F0002, *et seq.*; **RESPONSE OF DIRECT ENERGY SERVICES, LLC AND INTERSTATE GAS SUPPLY TO NOTICE REGARDING STAKEHOLDERS WORKING GROUP**

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and three (3) copies of the Response of Direct Energy Services, LLC and Interstate Gas Supply to Notice Regarding Stakeholders Working Group, in the above-captioned matter. As indicated by the attached Certificate of Service, all parties to the proceeding have been served with a copy of this Response.

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

Very truly yours,



Todd S. Stewart  
Counsel for the Natural Gas Suppliers

TSS/smk

cc: Patricia Krise Burket, Assistant Counsel (via electronic mail)  
Eric Stephens  
Vincent Parisi

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**RESPONSE OF  
DIRECT ENERGY SERVICES, LLC AND INTERSTATE GAS SUPPLY  
TO NOTICE REGARDING STAKEHOLDERS WORKING GROUP,  
DATED JANUARY 20, 2006**

---

Direct Energy Services, LLC (“Direct Energy” or “DES”) and Interstate Gas Supply (“IGS”)(referred to collectively herein as “Suppliers”), respectfully respond to the Pennsylvania Public Utility Commission’s (“Commission”) Notice re: Date Change, Request for Comments, and Call for Volunteers for the Natural Gas Stakeholders Working Group, dated January 20, 2006 (“Notice”).

**Introduction**

The Suppliers wish to commend the Commission for convening the Natural Gas Stakeholders Working Group (“Working Group”) and look forward to working with all stakeholders to improve the competitive natural gas choice programs in the Commonwealth and to assist the Commission in promoting natural gas competition in Pennsylvania. Even though it is obvious that a number of issues will necessarily be addressed in the collaborative process, the Suppliers believe that there are three or four key changes that, if implemented, will make a significant difference in creating a competitive natural gas market in Pennsylvania. With these

key changes in the market, Pennsylvania consumers will be able to enjoy the benefits of a vibrant and competitive natural gas market, like those in the neighboring states of Ohio and New York.

It is no secret that this winter's volatile energy markets have negatively impacted all participants in the marketplace. The suppliers submit that the type of competitive tools that they advocate will help mitigate against such volatile movements in the market, and will help to retain our business and workers, who otherwise would be likely to migrate across our borders to those states where competitive markets allow them to manage their energy costs proactively. Over the long term, such migration would mean fewer jobs, less tax revenue, and economic disadvantage to Pennsylvania. Accordingly, the Suppliers believe that the Commission's Notice is not only timely, but that fulfilling the mandate of working groups to promote competitive markets is an economic imperative.

#### **Response to Request for Subgroup Volunteers and Notification of Intent to Participate**

The Commission's Notice tentatively identifies three subgroups of issues on which the Commission is seeking input in an attempt to re-invigorate the competitive retail natural gas market in Pennsylvania:

- (1) Inter-company activity;
- (2) Customer interface; and
- (3) Cost of service.

The Commission requested that interested stakeholders make known their intent to participate in these groups by February 17, 2006. Direct Energy and IGS hereby notify the Commission of their interest in volunteering for each subgroup. The responsible persons are:

For Direct Energy :

Eric Stephens  
Director Government and Regulatory Affairs  
5400 Frantz Road, Suite 250  
Dublin, Ohio 43016  
Phone: 614-799-4902  
Cell: 614-506-2374  
e-mail: [eric.stephens@directenergy.com](mailto:eric.stephens@directenergy.com)

For IGS :

Vincent Parisi  
Interstate Gas Supply, Inc.  
5020 Bradenton Ave.  
Dublin OH 43017  
(614) 734-2649  
(614) 325-9175 (cell)  
e-mail: [vparisi@igsenergy.com](mailto:vparisi@igsenergy.com)

**Comments to Subgroups and Issue Assignments**

The Suppliers recommend realigning the subgroups to better reflect the ways in which both natural gas suppliers and natural gas distribution companies are functionally organized. The current grouping of the issues would require a broader range of expertise within each subgroup, a range that may require the participation of several staff persons, instead of just one. The Suppliers believe that their proposed division of the issues will allow all stakeholders to make more efficient use of resources, in the form of specific personnel with expertise in particular functional areas, and should allow the process to proceed with fewer scheduling conflicts. The Suppliers propose to re-group the issues into the following categories:

- I. Marketing/Customer Issues
- II. Gas Operational Issues
- III. Financial Issues
- IV. Regulatory Issues

The Suppliers propose to group the issues into these categories as follows:

- I. Marketing/Customer Issues
  - (i) Market Information
  - (ii) Switching Restrictions
  - (iii) Pricing Information and Consumer Educations
  - (iv) Seamless Moves
  - (v) NGDC Consolidated Billing
  - (vi) NGDC Promotion of Competition
  
- II. Gas Operational Issues
  - (i) Mandatory Capacity Assignments
  - (ii) Nominations and Delivery Requirements
  - (iii) Penalties for Non-delivery
  
- III. Financial Issues
  - (i) Security
  - (ii) Receivables for Mass Markets Customers
  - (iii) NGDC Negotiated Supply Contracts
  - (iv) Service to Low Income Consumers
  - (v) Costs of Retail Supply Service
  - (vi) Acquisition Cost for Mass Markets
  
- IV. Regulatory Issues
  - (i) Supplier Tariff Requirements
  - (ii) Supplier Consolidated Billing
  - (iii) Consumer Protection Rules
  - (iv) Sustained Commission Leadership in Competitive Markets
  - (v) Code of Conduct

The Suppliers agree that the list of issue identified in the Notice must be addressed in order to promote a healthy competitive market throughout the state. However, the Suppliers wish to add and/or emphasize the following:

(1) Under the topic of “Pricing information and consumer education,” the Suppliers believe that specific consideration must be given to Gas Cost Rate (“GCR”) reform. A monthly GCR mechanism along the lines of those used in New York, Ohio and Illinois, the purpose of which is to provide a more market-based default rate, will allow for a competitive market where customers will receive real price signals that will enable them make more accurate shopping

comparisons while encouraging energy conservation. Market based pricing, updated monthly, also will reduce the under- or over-collections, inherent in the GCR, that mask or distort the actual current price of gas. Under a market-based pricing regime, it is much more likely that consumers will see competition flourish. In addition to reforming the frequency of the GCR adjustment, reform is needed to ensure that costs are properly allocated to the GCR, with the following goals:

- a. Allocate all costs associated with commodity service to the GCR, while removing such costs from base rates so that customers who choose to purchase commodity from an alternative supplier are not penalized with redundant costs and expenses;
- b. Elimination of all subsidization of the GCR by Choice customers, and subsidization of Choice by GCR. This goal includes but is not limited to, the proper allocation of: bad debt expense, working capital costs of gas in storage, and off-system sales revenue, which currently is credited only to GCR customers. In addition, the costs associated with capacity, storage, and all other related assets which are recovered in base rates, must be re-allocated to the GCR so that only those customers that purchase commodity service from the utility pay for such assets.

(2) Under the topic of purchase of "Receivables for mass market customers," in addition to addressing the need for some form of bad debt tracker, there should be a discussion of the discount rate for the purchase of receivables, if any, and whether there should be a cap that defines the maximum usage level at which purchase of receivables will occur. In Ohio for example, Vectren Energy Delivery purchases receivables at a zero percent discount, but stops purchasing receivables once a customer exceeds 15,000 ccf of annual usage. By way of comparison, Dominion East Ohio also has filed an agreement to purchase receivables at a zero

percent discount, but has no limit on the level at which a receivable is purchased. The Suppliers agree that other economic considerations may dictate whether large users should participate in a mass market, purchase of receivables model.

(3) In a related topic, choice customers whose NGDCs purchase their receivables and who are in a no-pay/slow-pay situation, should be treated the same as sales customers. That is, while ensuring adequate consumer notice and protection is critical, NGDCs that purchase receivables should apply a single set of rules for customer service disconnections, to ensure that customers are not permitted to take advantage of the system and avoid paying commodity charges simply by choosing an alternative supplier. This notion is related to the need for a bad debt tracker as well.

(4) Under the topic of “Mandatory capacity assignment,” consideration should be given to a system much like that used in Dominion East Ohio where the supplier essentially receives a pro-rata share of all utility assets needed to serve its customers, since such assets are paid for through base rates. Alternatively, the issue should be addressed under (1) herein, (removal of all such costs from base rates or a corresponding credit for such base rate fees for customers that do not purchase commodity service from the utility can be considered). Either approach prevents customers of competitive suppliers from subsidizing default service customers.

(5) Under the topic of “Switching restrictions,” there should be discussion regarding fees or minimum stay requirements associated with switching. In Direct Energy’s experience these kinds of restrictions can substantially dampen shopping, much to the detriment of consumers and competition. Permitting early termination fees that are market based tends to permit customers to make economically informed decisions regarding changing marketers mid-

contract, while permitting such a switch and still providing marketers with some recovery for such mid-contract switching.

(6) Under the topic “Market information,” consideration should be given to the availability of customer contact and usage information as well as billing and payment histories, especially if the utility does not purchase receivables. Such information should be provided in an electronic and instantaneous fashion. Restrictions on access to this kind of information significantly increase marketing and fulfillment costs, which discourages competition.

(7) Under the topic of “Seamless move,” consideration should be given to the process implemented by Dominion East Ohio which allows for quick and cost-free contract portability for suppliers and customers.

(8) Under the topic of “Consumer protection rules,” consideration should be given to the concept of automatic renewals. A renewal provision that permits a supplier to provide notice at the end of each term of the pricing for the upcoming term, and that requires no action on the part of the customer in order to renew the agreement before automatic renewal occurs, provides customers with the greatest amount of flexibility at the lowest possible cost. Requiring affirmative consent for renewal significantly increases costs and limits products available upon renewal. This is an issue that should be addressed in conjunction with the renewal notice requirements. Each notice sent to the customer has a negative impact on the supplier in terms of out of pocket expense and customer churn. Requiring two notices doubles mailing expenses and creates retention issues for suppliers. Other unwritten rules associated with customer renewals—such as the requirement that the renewal price be under the then-current GCR in order to use the automatic renewal option without affirmative consent— further impede the development of the

competitive market. Discussion around these and other similar items is essential since they are significant impediments to competition.

(9) The Notice properly identifies clear tariffs and consumer protection rules as necessities for a vibrant competitive market. Consistent statewide policies in both regards will decrease suppliers' cost to serve customers and make it more likely that suppliers will enter Pennsylvania and/or conduct large-scale marketing campaigns.

(10) On the topic of "NGCD consolidated billing," discussion must turn to the importance of rate ready consolidated billing provided by the utility and access to the bill for purposes of offering the customer additional services. For instance, bills should have 2-3 additional line items such as a "senior citizen discount" that allow suppliers to reflect costs for value-added products they want to provide to consumers. After all, in a competitive market, suppliers must consistently seek to offer innovative products that consumers want in order to win their business.

### **Procedural Issues**

The Commission has set forth an ambitious agenda for the Stakeholder group. It must be careful, however, to recognize that many participants have limited financial and human resources. Therefore, the scheduling of meetings and the ability to conduct meetings via teleconference will be critical in gaining the greatest stakeholder participation possible. In this regard, the Suppliers suggest that:

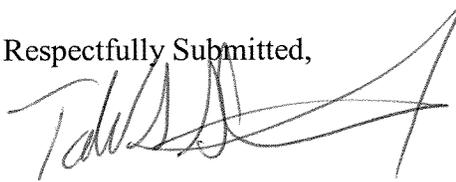
- (1) Meetings be scheduled Tuesday through Thursday to allow those stakeholders that must travel the greatest opportunity to be present for meetings without having to travel on weekends;

- (2) Teleconferencing should be available for all meetings (teleconferencing equipment should be adequate so that all parties on the line are able to hear the discussion at the meeting), to allow stakeholders whose budgets do not allow for extensive travel the opportunity to participate;
- (3) Meetings should not be scheduled simultaneously, since many stakeholders have limited numbers of staff;
- (4) Meetings should be highly focused, with specific agendas and goals set in advance of each meeting in order to make the best use of all stakeholders' time;
- (5) Meeting notes should be kept and should be circulated to all stakeholders in order to help prepare a record that will form the basis of recommendations and/or actions to be taken as a result of the meetings;
- (6) An e-mail list of all participants should be established in order to facilitate communications between and among the stakeholders; and
- (7) A nominee from each group should be assigned responsibility for chairing group meetings, facilitating group discussion and building consensus.

### **Conclusion**

The Commission has the opportunity to make substantive improvements in the Pennsylvania natural gas market through the Working Groups. Direct Energy and Interstate Gas Supply look forward to participating in the Working groups and addressing the topics, with the additional issues suggested here, in a collaborative process in an effort to establish “effective competition” throughout Pennsylvania.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Todd S. Stewart', with a long, sweeping horizontal stroke extending to the right.

Todd S. Stewart  
Hawke McKeon Sniscak & Kennard LLP  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105  
Attorney ID # 75556  
[tsstewart@hmsk-law.com](mailto:tsstewart@hmsk-law.com)

Counsel for:  
Direct Energy Services, LLC, and  
Interstate Gas Supply

## CERTIFICATE OF SERVICE

I certify that I am serving copies of the foregoing document on behalf of Direct Energy Services, LLC and Interstate Gas Supply, by e-mail and first class mail upon the persons addressed below:

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

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

Louis D. D'Amico, Executive Director  
Independent Oil & Gas Association of PA  
North Ridge Office Plaza II  
115 VIP Drive – Suite 110  
Wexford, PA 15090-7906

Industrial Energy Consumers of PA  
240 North Third Street, Suite 403  
Harrisburg, PA 17101

Mark T. Ward, VIP Regulatory Affairs  
Rockwood Building, Suite 110  
1077 Celestial Street  
Cincinnati, OH 45202-1629

Susan K. Jackson, Esquire  
Mixenergy  
20 Summer Street  
Stamford, CT 06901

Nancy Nielsen, Controller  
Mid American Natural Resources, Inc.  
2005 West 8<sup>th</sup> Street  
Erie, PA 16505

Mark R. Kempic, Esquire  
Columbia Gas of Pennsylvania  
650 Washington Road - #520  
Pittsburg, PA 15228-2703

Daniel L. Frutchey, Sr. VP & Gen. Counsel  
Equitable Gas Company  
200 Allegheny Center Mall  
Pittsburgh, PA 15212-5352

Scott R. McCorry, Vice President  
The Mack Services Group  
45 Branch Avenue  
P.O. Box 557  
Berwyn, PA 19312-0557

Gary A. Jeffries, Sr. Counsel  
Dominion Retail, Inc.  
1201 Pitt Street  
Pittsburgh, PA 15221

William R. Lloyd, Jr.,  
Small Business Advocate  
Suite 1101, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Frank Rainey, Director Energy Utilization  
Bruce Davis, VP, Gas Supply/Mktg.  
PG Energy, Inc.  
One PEI Center  
Wilkes-Barre, PA 18711-0601

Ralph E. Dennis, Director Regul. Affairs  
9960 Corporate Campus Drive - #200  
Constellation Newenergy – Gas Division  
Louisville, KY 40223

Mark S. Kumm, President  
PECO Energy Services  
1300 North 17<sup>th</sup> Street - #1600  
Arlington, VA 22209

Vincent A. Parisi, Esquire  
Interstate Gas Supply, Inc.  
5020 Bradenton Avenue  
Dublin, OH 43017

Alice A. Curtiss, Esquire  
National Fuel Resources, Inc.  
165 Lawrence Bell Drive - #120  
P.O. Box 9072  
Williamsville, NY 14231

Stephen J. Sickafuse, Treasurer  
T.W. Phillips Energy Corp.  
502 Keystone Drive - #200  
Warrendale, PA 15086

Curtis D. Clifford, VP of Natl. Gas Svc.  
975 Berkshire Boulevard - #100  
Wyomissing, PA 19610

Carl M. Carlotti, Vice President  
National Fuel Gas Distribution Corp.  
P.O. Box 2081  
Erie, PA 16512

Amy Gold, Director, Regulatory Affairs  
Shell Trading & Power Company  
909 Fannin Street – Plaza Level One  
Houston, TX 77010

Brian D. Crowe, Dir. Rates & Reg. Affairs  
PECO Energy Company  
2301 Market Street – S15-2  
Philadelphia, PA 19103

Mark C. Morrow, Esquire  
UGI Utilities, Inc. – Gas Division  
P.O. Box 858  
Valley Forge, PA 19482-0858

Jane L. Quin, Esquire  
Consolidated Edison Company of NY  
4 Irving Place  
New York, NY 10003

Marjorie Johnson, VP/Treasurer  
Valley Energy  
523 S. Keystone Avenue  
P.O. Box 340  
Syare, PA 18840

Charles Thomas, Jr., Esquire  
Thomas Niesen, Esquire  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street - #500  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Harry Kingerski, Reg. Affairs Manager  
Shell Energy Services, LLC  
910 Louisiana Street – Room 4100  
Houston, TX 77002

William R. Deter, VP Corporate  
Open Flow Gas Supply Corp.  
90 Beaver Drive - #110B  
P.O. Box Drawer J  
Dubois, PA 15801-0297

Jay W. Dawson, Esquire  
Robert M. Hovanec, Esquire  
T.W. Phillips Gas & Oil Co.  
205 North Main Street  
Butler, PA 16001

Alyssa D. Weinberger  
Katherine M. Edini  
Amerada Hess Corp.  
1 Hess Plaza  
Woodbridge, NJ 07095-0961

Irwin A. Popowsky, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1921

June Perry, Director  
Legislative Affairs  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-3256  
[juperry@state.pa.us](mailto:juperry@state.pa.us)

Robert A. Rosenthal, Director  
Fixed Utility Services  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 783-5242  
(717) 787-4750 (fax)  
[rosenthal@state.pa.us](mailto:rosenthal@state.pa.us)

Mitchell A. Miller, Director  
Bureau of Consumer Services  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 783-1661  
(717) 783-5659 (fax)  
[mitmiller@state.pa.us](mailto:mitmiller@state.pa.us)

Robert F. Young, Deputy Chief Counsel  
Law Bureau  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-5000  
(717) 783-3458 (fax)  
[ryoung@state.pa.us](mailto:ryoung@state.pa.us)

Paul E. Russell, Esquire  
PPL  
Two North Ninth Street  
Allentown, PA 18101-1179

Tim Merrill, GM & VP  
NRG  
111 South Commons  
Pittsburgh, PA 15212

Christopher M. Trejchel, Esquire  
National Fuel Gas Distribution Corp.  
P.O. Box 2081  
Erie, PA 16512  
(814) 871-8035  
[trejchelc@natfuel.com](mailto:trejchelc@natfuel.com)

Bohdan R. Pankiw, Chief Counsel  
Law Bureau  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-5000  
(717) 783-3458 (fax)  
[bpankiw@state.pa.us](mailto:bpankiw@state.pa.us)

Patricia Krise Burket, Assistant Counsel  
Law Bureau  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-5000  
(717) 783-3458 (fax)  
[pburket@state.pa.us](mailto:pburket@state.pa.us)

Richard J. Kruse  
Duke Energy Gas Transmission  
P.O. Box 1642  
Houston, TX 77251-1642

James P. Melia, Esquire  
Kirkpatrick & Lockhart Nicholson Graham  
17 North Second Street – 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
(717) 231-4500  
(717) 231-4501 (fax)  
[jmelia@klng.com](mailto:jmelia@klng.com)

Karen Oill Moury  
Director of Operations  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 772-8883  
(717) 787-3417 (fax)  
[kmoury@state.pa.us](mailto:kmoury@state.pa.us)

Wayne Williams, Director  
Bureau of Conservation, Economics and  
Energy Planning  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 783-1372  
(717) 787-2545  
[waywilliam@state.pa.us](mailto:waywilliam@state.pa.us)

Susan S. Lindberg, Esquire  
Duke Energy Gas Transmission, LLC  
P.O. Box 1642  
Houston, TX 77251-1642  
(713) 627-5224  
(713) 989-3190 (fax)  
[sslindberg@duke-energy.com](mailto:sslindberg@duke-energy.com)

Doreen F. Wrick  
Duke Energy Gas Transmission, LLC  
890 Winter Street - #300  
Waltham, MA 02541  
(617) 560-1536  
(617) 560-1581 (fax)  
[dfwrick@duke-energy.com](mailto:dfwrick@duke-energy.com)

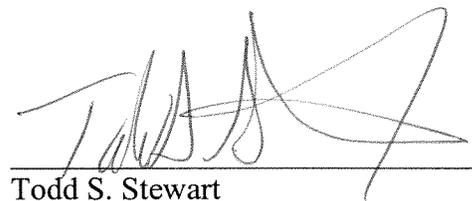
Thomas Charles, Manager  
Office of Communications  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-9504  
(717) 787-4193 (fax)  
[thcharles@state.pa.us](mailto:thcharles@state.pa.us)

Kirk House, Esquire  
Office of Special Assistants  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 772-8495  
(717) 783-6324 (fax)

Dated: February 17, 2006

Johnnie E. Simms, Esquire  
Timothy Wallick, Esquire  
Charles T. Weakley, Esquire  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-4886  
(717) 772-2677 (fax)  
[josimms@state.pa.us](mailto:josimms@state.pa.us)  
[twallick@state.pa.us](mailto:twallick@state.pa.us)  
[cweakley@state.pa.us](mailto:cweakley@state.pa.us)

Paul J. Metro  
Bureau of Transportation and Safety  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 787-1063  
(717) 772-1931  
[pmetro@state.pa.us](mailto:pmetro@state.pa.us)



Todd S. Stewart