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November 5, 2008

VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

RE: Revision of Guidelines for Maintaining Customer Services, Establishment of Interim Standards for Purchase of Receivables (POR) Programs; Docket No. M-2008-2068982;
JOINT COMMENTS OF DOMINION RETAIL, INC., INTERSTATE GAS SUPPLY, INC., and SHIPLEY ENERGY COMPANY

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and ten (10) copies of the Joint Comments of Dominion Retail, Inc., Interstate Gas Supply, Inc., and Shipley Energy Company in the above-captioned matter.

If you have any questions, please feel free to contact me.

Very truly yours,

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

TSS/bks
Enclosures

cc: Assistant Counsel Patricia Krise Burket (via email @ pburket@state.pa.us)
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Revision of Guidelines for Maintaining	:	
Customer Services, Establishment of Interim	:	Docket No. M-2008-2068982
Standards for Purchase of Receivables (POR)	:	
Programs	:	

**JOINT COMMENTS OF DOMINION RETAIL, INC.,
INTERSTATE GAS SUPPLY, INC., and
SHIPLEY ENERGY COMPANY**

NOW COME, Dominion Retail, Inc. (“Dominion Retail”), Interstate Gas Supply, Inc. (“IGS”) and Shipley Energy Company (“Shipley”) (collectively “NGSs”), and hereby offer their Comments in response to the Secretarial Letter dated October 16, 2008, in the above-captioned matter.

The Pennsylvania Public Utility Commission’s (“Commission”) Secretarial Letter requested interested parties to provide comments to aid the Commission as it addresses an issue that arose in the recently decided Columbia Gas of Pennsylvania (“Columbia”) rate case, *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2008-2011621, *et al* (“Columbia rate case”). In the Columbia rate case, the parties, including the NGSs (who were active participants) agreed to a settlement that included modifications to an existing purchase of receivables (“POR”) program.¹ As part of the settlement, Columbia agreed to purchase supplier receivables at a discount of 1.86% plus an administrative charge, only if it were permitted to treat natural gas supplier (“NGS”) customers the same as its own supply customers, particularly with regard to termination if those customers failed to pay their bills to

¹ Under its existing, voluntary program, Columbia purchases supplier receivables at a 5% discount.

Columbia where Columbia purchased the receivable from an NGS. The NGSs supported the need for equal treatment in termination and the OCA opposed it. As part of the settlement of that case, however, the parties agreed to brief the issue and allow the Commission to decide it.

At its public meeting of October 23, 2008, the Public Utility Commission rejected the provision of the settlement that would have permitted Columbia to terminate customers for non-payment of receivables purchased from NGSs. The Commission chose not to overturn an existing Order², issued in 1999 at the outset of natural gas competition that prohibited the termination of NGS customers for non-payment of NGS receivables purchased by the NGDC. Rather than overturn its prior order, the Commission chose to receive comments from interested parties before addressing this vitally important issue. Despite the fact that the Commission chose to defer a decision, for the present, on the termination issue, it nonetheless expressed its hope that once the issue was resolved that all NGDCs, including Columbia, would file appropriate POR programs in short order.

Chairman Cawley's motion that resolved the Columbia rate case found that POR programs that treat all customers equally are in the public interest, and do reduce barriers to entry. In particular, Chairman Cawley's motion held that "purchase of receivable programs that treat utility-supply and NGS-supply customers equally regarding termination rights remove barriers to the development of competition." (Chairman's Motion at 2). In addition, properly crafted POR programs offer benefits to customers and to NGDCs. The NGSs believe that the termination restriction provision in the Guidelines Order is not necessary and that the Guidelines Order should be modified accordingly.

² *Tentative Order Re: Guidelines for Maintaining Customer Services at the Same Level of Quality pursuant to 66 Pa. C.S. § 2206(a), Assuring Conformance with 52 Pa. Code Chapter 56 pursuant to 66 Pa. C.S. § 2207(b), § 2208(e) and (f), and Addressing the Application of Partial Payments*; Docket No. M-00991249F0003 (Order Entered August 26, 1999) ("Guidelines Order").

The Secretarial Letter requested comments in response to four specific questions:

1. Should an NGDC be allowed to terminate customers for the failure to pay receivables purchased by an NGS pursuant to a Commission-approved POR program?
2. Should the *guidelines* be modified to remove this regulatory uncertainty?
3. Are there other related consumer protection issues that need to be addressed as a result of any changes to utility termination rights?
4. Are any statutory amendments necessary for this type of POR program to be implemented?

In addition to these four specific questions the Commission invited interested parties to propose “other guidelines that may be used in the design and operation of POR programs.” The NGSs will address these questions in order.

1. Should a NGDC be allowed to terminate customers for the failure to pay receivables purchased [from] a NGS pursuant to a Commission-approved POR program?

Yes, provided that the Commission approves the POR program, and the program requires equal treatment of NGS and NGDC customers. Such equivalent treatment benefits customers by providing a predictable competitive environment—that is, a single set of rules. What that means is that if a customer were to become delinquent, the customer would be contacted by a single entity seeking to arrange payment, discuss customer assistance programs³, and the like. Having two entities making such contacts, particularly at the point of collection, can easily lead to customers feeling confused, since customers may be contacted by several entities about what they may believe to be the same delinquency. Customers also benefit because they do not pay a

³ With POR programs such as that proposed by Columbia, it would even be possible to provide customer access to CAP programs and other low income/payment troubled customer programs that today prevent participating customers from exercising CHOICE.

penalty if they shop in the form of paying for bad-debt related expense twice. Rather, they pay once to the utility that provides the same service for all customers.

Such programs also benefit NGDCs, by allowing them to maintain a single, unified billing and collection program. In those service territories that have competition at the residential level, most NGS customer bills are now rendered by the NGDC's billing system. With two sets of rules for collection and termination, however, NGDCs must have two sets of procedures and perhaps even two separate billing systems. Allowing NGDCs to treat all customers the same (without conditions such as those pressed by the OCA that would put an effective cap on NGS rates and require NGDCs to enforce the caps) will create efficiency for NGDCs that will reduce their expenses and streamline their processes.

Allowing equivalent treatment also removes a significant barrier to NGS entry into markets in the form of lower discounts for POR programs, lower collection costs, and lower customer acquisition costs, because, as demonstrated in the Columbia rate case, NGDCs are more likely to offer low POR discount rates if the NGDC is given the necessary tools to reduce its exposure to the risk of non-payment—namely, the ability to terminate for non-payment. Likewise, with the NGDCs using their collection processes for all customers, NGSs have less risk exposure than under present programs where NGSs may not even be aware of customer delinquencies until those accounts are recoured or switched to default service. In some cases, NGSs may be “on the hook” for delinquencies without even knowing that the customer is behind in payment and without having an opportunity to address the issue. Allowing NGDCs to treat NGS POR customers the same as its own supply customers eliminates that potential.

Finally, POR programs, such as the one proposed by Columbia, that would require all NGSs to participate if they use the NGDC billing system, in return for lower discount rates, can

substantially reduce customer acquisition costs because NGSs should have no concern about what customers they serve. Moreover, because NGSs must inevitably reflect the discount rates in the burner tip prices offered to all their customers, processes that allow equal treatment between customer classes which, in turn, result in lower discount rates, will effectively lessen a cost component passed on to NGS customers who do pay their bills.

Additionally, there is evidence from other jurisdictions that POR programs increase supplier participation in markets and increase migration rates, while maintaining relationships between supplier and customer without unnecessary interruptions. For example, in the Columbia Gas of Ohio service territory, the number of customers who were being served by an alternative supplier in 2005 was approximately 475,000 customers; with no alternative supplier serving the low income customer group. Currently, the number of customers being served by alternative suppliers exceeds 626,000. Importantly, in 2005, the Ohio Commission agreed to revise the rules so as to permit disconnection of customers for non-payment of receivables purchased from alternative gas suppliers. Docket No. 04-1631-GA-UNC. The Ohio Commission recognized that by doing so it would create parity between choice and sales customers on this issue, and would actually create greater fairness in the market.

Perhaps one of the best examples of the benefits of POR to the competitive marketplace resulted from the New York Public Service Commission's ("NYPSC") recommendation to implement this critical mechanism in its August 25, 2004 *Statement of Policy on Further Steps Toward Competition in Retail Energy Markets (Case 00-M-0504)*. In that statement, the NYPSC focused on near-term customer migration strategies for residential customers and strongly encouraged "utilities to consider implementing purchase of supplier's accounts receivable without recourse under utility consolidated billing programs, discounted as

appropriate, and supported by a utility customer service call center program that will facilitate the transfer of customers to suppliers.” In September 2004, immediately following the NYPSC’s proactive Statement of Policy, there were 303,000 residential customers purchasing natural gas from alternative suppliers. However, as of August 2008, the last month for which such data is currently available, there were 561,000 residential customers shopping - an increase of 85.1%. This substantial increase occurred, in part, due to the NYPSC's strong support and the subsequent adoption by Natural Gas Distribution Companies as they implemented the recommended policy.

Finally, an increasingly important societal goal is furthered by allowing NGDCs to terminate service for non-payment by NGS customers—energy conservation and efficiency. At both the national and state level, policies are evolving to promote wise consumption and energy efficiency. Impeding the ability of an NGDC to terminate service for non-payment compromises a valuable tool that can be used to modify behavioral consumption patterns which otherwise would be impacted by timely payment accountability.

In short, the evidence shows that all parties benefit from POR programs. And there is no hard evidence to support the contrary position, that POR programs increase costs—in fact, it is hard to imagine how having a utility continue to perform the same functions it does today, for all customers, while giving NGDCs a tool to reduce delinquency from a portion of those customers that today are isolated from collection because they cannot be terminated, will increase costs to anyone. Accordingly, the NGSs believe that the prudent course is to permit termination for non-payment of receivables that are purchased pursuant to a Commission approved POR program and ask that the Commission modify the Guidelines Order accordingly.

2. Should the *guidelines* be modified to remove this regulatory uncertainty?

The NGSs continue to believe that it was legally permissible for the Commission to approve the Columbia rate case settlement provision that would have allowed termination of NGS customers on the same terms as NGDC supply customers, without modifying the Guidelines Order. However, for purposes of providing certainty to all other NGDCs—those that do not have POR programs and that may want to propose such programs before the end of the year—it is important that the Commission make the rules clear. In this case, it is important to make certain that all jurisdictional NGDCs understand that they will be permitted to treat all customers the same with regard to billing and collection, so that they can propose programs that recognize the benefits of doing so. Revising the Guidelines Order will make it clear that such POR programs comply with the Commission’s policy view, as opposed to the present situation where such programs conflict with the view expressed in a 9-year old order. Accordingly, the NGSs support the modification of the Guidelines Order to remove regulatory uncertainty.

3. Are there other related consumer protection issues that need to be addressed as a result of any changes to utility termination rights?

The Commission’s relevant regulations, 52 Pa. Code §§ 56.01, *et seq.*, and Chapter 14 of the Public Utility Code, 66 Pa. C.S. § 1401, *et seq.*, contain protections that have been deemed appropriate for NGDC customers. Removing the “no termination provision” of the Guidelines Order will allow NGS customers the same consumer protections—presupposing, of course, that in reviewing any proposed POR programs, the Commission makes it clear that such equivalence is required. There is no need to provide any additional protection to customers. There already exist adequate procedures to ensure that the rules are followed. That is not to say, however, that the Commission need not address other issues involving POR programs, such as appropriate

discount rates, mandatory participation, and whether administrative fees are appropriate. However, in the context of this request for comments, which appears to be focused on the non-termination provision in the Guidelines Order, discussion of those subjects may only slow down the process with issues that can either be addressed on a case-by-case basis or left to the upcoming rulemaking.

4. Are any statutory amendments necessary for this type of POR program to be implemented?

No. In the current context, with regard to voluntary POR programs, no statutory change would be necessary to allow NGDCs to treat all customers the same. In fact, one could argue that the Natural Gas Choice and Competition Act already requires such equivalent treatment.⁴ Moreover, there is no provision anywhere in the Public Utility Code, including Chapter 14, 66 Pa. C.S. § 1401, *et seq.*, that would require modification so as to allow equivalent treatment in termination. Accordingly, the NGSs do not believe that a statutory change is required for the voluntary programs currently under consideration.

5. Other Guidelines?

As a practical matter, it would be difficult to adequately address, in this context, other requirements of POR programs. That being said, however, if the Commission desires to go further than simply addressing the ability of NGDCs to terminate NGS customers for non-payment of purchased receivables, it would do well to consider the terms of the Settlement in the Columbia rate case that relate to POR and that do not appear to have been considered by the Commission's Final Order in that case. In particular, issues such as: (a) the relationship of the discount rate to the NGDC's experienced uncollectible rate; (b) the unbundling (out of

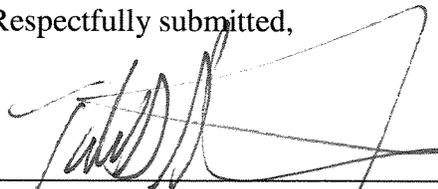
⁴ See *e.g.*, 66 Pa. C.S. § 2203(4)(requires that Natural Gas Distribution Service be provided on equivalent terms); and, 66 Pa. C.S. § 2203(3)(requires that consumer protections be maintained at present levels).

distribution rates) of collection costs related to purchased gas costs; and (c) the level of an appropriate POR discount and the need for administrative fees, all were addressed in the context of the Columbia rate case and would need to be considered either on a case-by-case basis or in a comprehensive rulemaking. It would be difficult to consider these issues for other NGDCs in the evidentiary vacuum of a proceeding such as the present one, however, and such issues are probably best left to individual filings. If the Commission desires such input now, it may be best to initiate a separate inquiry and pose specific questions such as those addressed in the Columbia rate case settlement.

CONCLUSION

The NGSs wish to thank the Commission for allowing this opportunity for comment, and sincerely hope that their input will aid the Commission in its decision making process. As always, the NGSs remain willing to cooperate with the Commission's Staff and with other parties to lend any additional clarity that may be required.

Respectfully submitted,



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