

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Licensing Requirements for Natural Gas Suppliers ) Docket No. L-2008-2069115

**COMMENTS OF AGWAY ENERGY SERVICES, LLC, GATEWAY ENERGY  
SERVICES CORPORATION, INTERSTATE GAS SUPPLY, INC.,  
AND VECTREN RETAIL, LLC**

**INTRODUCTION**

In accordance with the action taken by the Pennsylvania Public Utility Commission (“PUC,” or “Commission”) on December 4, 2008 in relation to the Commission’s *Investigation into the Natural Gas Supply Market: Report on Stakeholder’s Working Group*<sup>1</sup>, a proposed rulemaking proceeding has been initiated under this Docket and the Commission is seeking Comments on Licensing Requirements for Natural Gas Suppliers.

As independent natural gas marketers, Agway Energy Services, LLC (“Agway”), Gateway Energy Services Corporation (“Gateway”), Interstate Gas Supply, Inc. (“IGS”), and Vectren Retail, LLC (“Vectren”), known separately and together for purposes of this filing as “NGS Parties”<sup>2</sup> collectively appreciate the opportunity to comment on the proposed rules issued by the Commission which would establish a consistent set of licensing requirements for Natural Gas Suppliers (“NGSs”) within the Commonwealth.

Agway, Gateway, IGS, and Vectren have a strong interest in the consistent development and formation of an efficient, competitive natural gas market in Pennsylvania. As such, our interest in this proceeding is to help ensure a level playing field for all NGSs with regard to required licensing and the financial security instruments. In particular, we wish to provide strong support for the proposed use of NGS customer receivables pledged to Natural Gas Distribution

---

<sup>1</sup> Stakeholders Exploring Avenues for Removing Competition Hurdles (“SEARCH”), *Report of the Stakeholders’ Working Group, Investigation into the Natural Gas Supply Market*, Docket No. I-00040103F0002, dated September 2008.

<sup>2</sup> This group of energy marketers, which supply natural gas, electricity, and various other energy services to residential and commercial customers across a large number of utility markets throughout several states, works together collaboratively on non-competitive, regulatory issues to advance competitive markets and consumer choice.

Companies (“NGDCs”) through a Commission-approved purchase of receivables (“POR”) program. In addition, the NGS Parties believe that standard language should be adopted for all other financial instruments used for security by NGS’s as required by NGDC’s in order to provide for a competitively neutral marketplace that can lead to robust and effective competition.

**AGWAY, GATEWAY, IGS AND VECTREN GENERALLY AGREE WITH THE PROVISIONS SET FORTH IN THE COMMISSION PROPOSED RULES**

The proposed rulemaking revises 52 Pa. Code §62.111 to include: (1) the use of NGS accounts receivables in a Commission-approved POR program to satisfy part of, or the total security requirement; (2) the adoption of standard language for financial instruments used for security; and (3) the development of reasonable criteria for a NGDC to use in adjusting the level of security that a NGS must provide to maintain its license. Agway, Gateway, IGS, and Vectren agree that these proposed revisions will “better balance the ability of a NGS to provide adequate security”<sup>3</sup> and will help begin to establish a uniform set of business practices for NGSs to follow in the Commonwealth of Pennsylvania. As the NGS Parties have learned from their extensive involvement with PUC and utility proceedings in several other states, a consistent set of licensing requirements is just one element that is critical to enabling and supporting a competitive marketplace.

In addition, the NGS Parties have had significant experience with POR programs in other states and have found POR – when administered in a consistent and non-discriminatory manner to NGSs as a natural extension of billing by the utilities – to be one of the most important tools for marketplace development, customer satisfaction, and smooth transition to competition.

We also generally agree that a minimum threshold of security needed by an NGS should be “reasonably related to the financial exposure imposed on the NGDC or supplier of last resort resulting from the default or bankruptcy of the licensee,” and that “the amount of security should

---

<sup>3</sup> Proposed Rule, Docket No. L-2008-2069115, Executive Summary, at 1.

materially reflect the difference between the cost of gas incurred and the supplier's charges, if any, incurred by the NGDC or supplier of last resort during one billing cycle."<sup>4</sup>

The proposed rule sets forth that various legal and financial instruments and property would be acceptable as security, including bonds, irrevocable letters of credit, and/or a corporate, parental or other third-party guaranty. Each of these forms of security is commercially acceptable and common, and seem reasonable to the NGS Parties for the purposes of this Proceeding and rulemaking with regard to NGS licensing.

### **CONSISTENCY IN DETERMINATION OF SECURITY IS CRITICAL**

As noted by several Parties including many of the NGS Parties during ongoing Comments provided during the SEARCH Working Group phase of Docket No. I-00040103,<sup>5</sup> NGS Parties strongly recommend that uniformity and consistency in the use of security instruments by NGDCs is critical to the successful involvement of NGSs across multiple utility service territories. If not administered on an equal, unbiased basis, disparity will develop in how NGSs are treated in various NGDC service territories, which will create additional barriers to entry for NGSs into the marketplace. This is especially critical during a time when the cost of security instruments has escalated to unprecedented levels.

Moreover, providing a consistent approach to NGDC security requirements represents good business practice, and will enable further investment by the NGS Parties into the Pennsylvania marketplace where the rules are known and the requirements are clearly stated.

The NGS Parties believe that establishing standard language – such as that found on North American Energy Standards Board (NAESB) forms and business practices – would help

---

<sup>4</sup> Proposed Rule, Docket No. L-2008-2069115, §62.111(c)(1).

<sup>5</sup> Stakeholders Exploring Avenues for Removing Competition Hurdles ("SEARCH"), *Report of the Stakeholders' Working Group, Investigation into the Natural Gas Supply Market*, Docket No. I-00040103F0002, dated September 2008.

provide for a consistency of language that is used across states and regions of the United States.

If the NGS Parties have one concern, it is with the §62.111(c)(1)(ii) of the proposed rulemaking, which states “the amount of the security may be adjusted, but not more often than every 6 months.” and then goes on to articulate various criteria that include “reasonable” conditions that may have materially affected an NGS’s ability to meet their credit requirements, as well as any operational changes that may have impacted the NGDC.<sup>6</sup> While we fully realize that each NGDC must have the latitude to adjust security requirements for any given NGS based on these criteria; we hope to see these licensing requirements included as part of a broader package of additional uniform business practices that are ultimately adopted by the Commission to help assure consistency among NGDCs throughout the Commonwealth. Otherwise, the definition of “reasonable” may be left open to widespread interpretation by NGDCs without specific guidelines. In addition, credit and review criteria must be appropriately stringent to impede market entry by gas suppliers which cannot demonstrate the technical, financial, and operational capabilities to perform required services and which could result in a higher likelihood of default, and a detrimental impact on the entire industry.

These uniform business practices, while certainly different from a credit-worthy and security requirement standpoint for natural gas vs. electricity, would best serve the competitive energy marketplace in total if they were as uniform as possible.

We believe that consistent Commission and utility business practices are critical to the economic viability of the energy marketplace, and to properly and efficiently serve consumers who are still learning about the emerging market. Our interest in this proceeding primarily revolves around the desire to allow for a vibrant and robust competitive market that will attract more suppliers to serve customers.

---

<sup>6</sup> Proposed Rule, Docket No. L-2008-2069115, §62.111(c)(1)(ii)(A-E).

## **CONCLUSION**

Agway, Gateway, IGS and Vectren believe the Commission has a very important opportunity ahead to put in place the policies and consistent practices that will attract investment into the Commonwealth by well-capitalized energy marketers that are committed to the growth and development of markets. Focus on the retail energy market by the Commission is strongly needed to send a positive signal to the industry and consumer, and to foster an environment where lower costs, transparent prices, expanded services, energy efficiency, and environmentally-friendly offerings are readily available for consumers. Paramount to this effort is to provide a consistent business practices environment – that includes uniform licensing requirements – for both natural gas and electricity. While the two fuels are certainly different, we believe that a number of similarities exist in how energy is offered for sale, billed, paid for, and managed by consumers in terms of their interface with utilities.

We recognize that much work remains and pledge to the Commission our support to help made that vision a reality.

June 1, 2009

Respectfully submitted



---

Michael F. Meath  
Regulatory Consultant  
President  
Strategic Communications, LLC  
3532 James Street, Suite 106  
Syracuse, New York 13206

c/o Agway Energy Services, LLC  
Gateway Energy Services Corporation  
Interstate Gas Supply, Inc.  
Vectren Retail, LLC

cc: Anthony Cusati, III  
Director of Regulatory Affairs, Eastern Division  
Interstate Gas Supply, Inc.

Lawrence Friedeman  
Vice President, Regulatory Affairs  
Vectren Retail, LLC

Terence McInerney  
Director of Sales  
Agway Energy Services, LLC

Angela Schorr  
Vice President of Regulatory Affairs and Quality Assurance  
Gateway Energy Service Corporation

Mark J. Pitonzo  
Director of Business Development  
Agway Energy Services, LLC