

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY OF THE COMMISSION

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

S.E.A.R.C.H. Final Order and Action Plan for : Docket No. I-00040103F0002
Increasing Effective Competition in :
Pennsylvania’s Retail Natural Gas Supply :
Services Market :

REPLY COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA

to

Proposed Rulemaking Order

The Energy Association of Pennsylvania (“EAPA” or “Association”) files the within reply comments on behalf of its natural gas distribution company members¹ in connection with a Proposed Rulemaking Order issued on May 1, 2009 by the Pennsylvania Public Utility Commission (“PUC” or “Commission”). The Proposed Rulemaking Order resolves “to revise and, when feasible, to standardize natural gas distribution company (“NGDC”) business practices, operating rules and supply coordination tariffs.” Order at p. 2.

Reviewing the comments submitted by the varied stakeholders in this proceeding, it is clear that the Commission’s original intent to conduct a stakeholder process to run concurrently with the rulemaking, together with a technical subgroup to establish electronic data

¹ The Association’s natural gas distribution company members include Columbia Gas of Pa., The Peoples Natural Gas Company d/b/a Dominion Peoples, Equitable Gas, National Fuel Gas Distribution Corp., PECO Energy Company, Philadelphia Gas Works, and the UGI Distribution Companies.

communication standards and formats, remains a critical component in finalizing these regulations. For example, the stakeholder process would not only streamline the development of a standard supplier coordination tariff (“SCT”), it would allow for discussion and refinement of definitions proposed in the instant rulemaking. The Association notes that a number of stakeholders, utilities and suppliers alike, provided comments proposing revisions to specific definitions. Resolution of differences with respect to how terms are defined is well suited to a stakeholder process which would allow for discussion and consensus in finalizing definitions. As in its earlier submittal, the Association respectfully encourages the Commission to initiate the stakeholder process.

Additionally, a number of commentators agreed with the Association that these rules should be aimed at the small commercial and residential market as opposed to large transportation customers. EAPA asks the Commission to narrow the application of these rules to the small commercial and residential customer market so as to avoid confusion and interference in existing contracts and long-standing practices.

To the extent that the Commission includes larger suppliers in the ambit of this rulemaking, it should also recognize that certain of the proposals advanced by the Retail Energy Supply Association to primarily benefit larger marketers would not only lead to increased costs for NGDCs and PGC customers, but would also raise issues of system reliability. For example, proposals to only permit imbalance penalties where after-the-fact determinations are made that imbalances actually caused incremental cost would provide an incentive to customers to engage in arbitrage opportunities rather than deliver system supplies since no penalty might be imposed, leading to a deterioration in system reliability.

Further, while the Association shares the general concerns voiced by the Office of Consumer Advocates (“OCA”) regarding the likelihood of increased costs to consumers if the proposed regulations were finalized as drafted, EAPA and its NGDC members do not agree that a solution is to eliminate proposed Section 62.184. Rather, as stated by the Association and in individual comments filed by its NGDC members at this docket, Section 62.184 should be revised. A revision could provide that if a NGDC wishes to seek a separate cost-recovery mechanism to recover the costs incurred in connection with implementation of any changes aimed at promoting the development of effective competition in the retail market, the mechanism and costs would be addressed in a proceeding separate from a 1307(f) proceeding with its attenuated schedule. The Association notes that OCA does agree that a separate proceeding is warranted if cost recovery from ratepayers is permitted. Again, discussion of cost recovery in a stakeholder process could narrow the concerns and help to establish a workable mechanism.

With respect to the comments filed by the Independent Oil and Gas Association of Pennsylvania (“IOGA”), EAPA notes that the issues raised concerning Pennsylvania produced gas for those utilities with local production on their systems were not part of the original S.E.A.R.C.H. process nor have these been previously raised by IOGA in this collaborative process. The Association contends that IOGA’s suggested additional language should not be included in a final rulemaking.

The S.E.A.R.C.H. Final Order and Action Plan has given rise to three separate rulemaking proceedings involving a number of complex issues which, when finalized, will require business and operational changes with attendant costs to ratepayers. All of the issues raised in the rulemakings have been vetted with stakeholders and yet consensus has not been achieved. At this point, the Association seeks to narrow and prioritize issues emanating from the

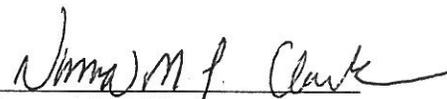
S.E.A.R.C.H. collaborative process such that rules can be finalized. Interjecting IOGA's proposal at this point adds yet another level of complexity to the instant investigation without eliminating any of the identified barriers to competition.

The Association welcomes the opportunity to participate in the stakeholder process and technical subgroup referenced in the Order to resolve issues raised by stakeholders' comments to the proposed regulations. As recognized by IECPA and the NGDCs, such a process is particularly crucial to clarify and distinguish rules that will apply to the residential and small customer market as opposed to rules that will apply to large interruptible transportation customers, i.e., the retail natural gas market vs. the wholesale natural gas market. The contemplated stakeholder process will allow for further input and refinement regarding rules that will impact current operations and business practices and will involve costs to utilities and their ratepayers. As contended by the Association and OCA, only by clarifying the regulations as proposed so that costs can be estimated will the Commission be able to insure that the contemplated changes bring benefits to customers along with added costs.

Respectfully Submitted,



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