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November 15, 2012

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

**RE: REPLY COMMENTS of the Energy Association of Pennsylvania
To the Commission's Interim Guidelines For Natural Gas Distribution Company
Eligible Customer Lists (Tentative Order at Docket No. M-2012-2324075)**

Dear Secretary Chiavetta:

Enclosed for filing please the Reply Comments of the Energy Association of Pennsylvania's Comments filed in the above-referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donna M. J. Clark", is written over a faint, larger version of the same signature.

Donna M. J. Clark
Vice President and General Counsel

CC: Robert F. Powelson, Chairman
John F. Coleman, Vice Chairman
Pamela A. Witmer, Commissioner
Wayne E. Gardner, Commissioner
James H. Cawley, Commissioner
Lawrence Barth (lbarth@pa.gov)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Interim Guidelines for :
Natural Gas Distribution Company : Docket No. M-2012-2324075
Eligible Customer Lists :

**REPLY COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO THE TENTATIVE ORDER FOR ECL INTERIM GUIDELINES**

I. Introduction

On September 27, 2012, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) issued a Tentative Order proposing interim guidelines for the provision of Eligible Customer Lists (“ECL”) by Natural Gas Distribution Companies (“NGDC”) to Natural Gas Suppliers (“NGS”). The Tentative Order sought comments on proposed interim guidelines for an ECL to be used in the gas retail market that are similar to those issued in connection with ECLs that are provided by electric distribution companies to electric generation suppliers.

On October 29, 2012, the Energy Association of Pennsylvania (“EAP” or “Association”) submitted comments to the Tentative Order on behalf of identified natural gas distribution company members¹. Comments filed by several stakeholders offered suggestions which EAP maintains would result in increased costs and minimal, if any, benefits to ratepayers, including a

¹ Columbia Gas of Pennsylvania, Inc.; Equitable Gas Company, LLC; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company; Peoples TWP, LLC; Philadelphia Gas Works; UGI Utilities, Inc.; UGI Penn Natural Gas, Inc.; UGI Central Penn Gas, Inc.; and, Valley Energy, Inc.

monthly update to the ECL as opposed to an annual update and the inclusion of additional data points.

Pursuant to the Tentative Order, reply comments are due on November 15, i.e. 15 days following the submission of comments which were due on October 31, 2012 as a result of Hurricane Sandy. The Energy Association of Pennsylvania submits these reply comments to address positions and suggestions raised by certain stakeholders in filed comments.

II. Reply Comments

A. Interim Guidelines are Necessarily Non-Binding.

EAP underscores the language in the Tentative Order at page one which is clearly intended to “provide guidance” to the NGDCs and NGSs, similar to the non-binding guidance provided for use in the retail electric market. EAP disagrees with the suggestion by the National Energy Marketers Association (“NEMS”) that guidelines issued pursuant to the tentative order process employed in the instant proceeding create binding norms. Clearly, the Commission, by the very nature of the proceeding, proposes an interim measure establishing principles to inform NGDCs as they formulate ECLs. Moreover, the Tentative Order, itself, states that the Commission seeks to mirror its action in the electric industry order, which is non-binding.

The Commission’s objective is to put into place uniform guidelines to assist in the development of the retail market. The guidelines identify preferred outcomes and expectations, and recognize the need for flexibility and discretion in achieving those outcomes so as to better serve the shopping customer.

EAP appreciates the use of guidelines here and the recognition of the variables and differences between utilities that lend to individualized timeframes and implementation such as

programming changes, system programming and coordination. EAP and its members clearly understand the overall expectations and welcome the discretionary nature of the guidelines which allow NGDCs to develop effective and efficient solicitation schedules that advance competition while balancing costs to ratepayers and the need to avoid consumer fatigue through numerous mailings.

B. ECL Guidelines should be Applicable Only to Residential and Small Business Customers as opposed to All Customers.

The Hess Corporation, in its comments, suggested that the ECL guidelines should apply to all customers. EAP and its members agree with the concerns raised by the Industrial Energy Consumers of PA (“IECPA”) on behalf of its “Industrial Consumer Groups” that the large customers in the industrial and commercial (“I&C”) class should be exempt from the ECL guidelines.

As noted by IECPA’s comments, the larger I&C class of customers already have a long-standing history of shopping with alternative suppliers and additional messaging and processes to induce shopping are not needed. In addition, subjecting those customers to participation in the ECL process could pose competitive harm as their usage data is extremely sensitive. As IECPA contends, natural gas consumption has a direct relationship to confidential business practices and the protection of this information is crucial to preventing unfair competition. IEACP Comments at page 4.

C. ECL Data Points Should be Limited to the Ten Data Points Proposed in Appendix A of the Tentative Order.

The Commission identified ten data points which it determined were sufficient and appropriately identified the basic customer information necessary for marketing to a particular customer class. Several NGS commentators suggest that the Commission should expand the proposed data points to include additional data points such as Peak Demand CCF, Base Factor, Use Factor and County; and further, that Monthly Peak Demand Data should be required.

EAP agrees that the ten data points originally identified by the Commission are appropriate and opposes the provision of further data which may reveal private or proprietary customer information. The additional data points contain private customer information and should only be made available if necessary or essential for marketing efforts to a particular customer class. None of the parties requesting the expansion labeled these additional data points as necessary for marketing efforts. Instead, the additional data points were classified as useful.

With respect to peak demand information, the Commission provided for the fact that not all NGDCs have and/or currently maintain peak demand data by noting that it should be provided *if available*. Tentative Order at Appendix A.

EAP recommends that the information provided through the ECL should be limited to the ten data points suggested by the Commission in its Tentative Order.

D. Education Efforts Involving the ECL as Outlined in the Tentative Order Are Sufficient to Inform Ratepayers.

The comments of the Office of Consumer Advocate (“OCA”) contend that NGDCs should provide additional initial and ongoing information to customers about the ECL and its purposes/benefits so that customers can revisit their decision to either opt-out or remain on the

ECL. EAP maintains that the proposed ECL education process which includes on-going efforts such as periodic announcements in bill inserts and welcome packages will provide the necessary information to customers on the value of the ECL and additional repeated education will not be effective and may oversaturate the market, causing customers to undervalue the importance of shopping.

EAP maintains, however, that should additional educational materials be required, NGDCs should be permitted to timely recover those expenses. EAP submits that any costs related to soliciting customers to shop and/or preparing and distributing the ECL, including any additional ECL educational communications that may be required, are recoverable. NGDCs ask for flexibility in the method utilized to seek cost recovery whether via a base rate proceeding or a separate petition for an approved non-bypassable recovery mechanism.

E. General Solicitations Not Necessary Every Three Years; An “Opt-Out” Decision Should Remain In-Place Until Changed by Customer.

The proposed interim guidelines recommend that NGDCs re-solicit the entire customer base every three years regarding the decision to opt-out. EAP supports the comments filed by PECO which submit that there is no need for a new list/solicitation every three years. The costs of a general solicitation are not insubstantial and are borne by ratepayers not the suppliers. Moreover, the on-going efforts by NGDCs (i.e. messaging in bill inserts and welcome packages) should be sufficient and a customer decision to opt-out should remain in place until such time as the customer asks to be included on the ECL. Customers will be free to change their decision to

“opt-out” at any time and the on-going education efforts contemplated by the guidelines will clearly deliver that message.

If periodic re-solicitation of the entire customer base is required, NGDCs may understandably seek to avoid contacting customers who have recently made an affirmative decision to share information with NGSS and not repeatedly re-solicit those ratepayers within a short time-frame. Further, under guidelines, NGDCs may decide to forego a particular periodic solicitation based on cost concerns, frequent customer communications regarding CHOICE and/or evidence of market saturation or consumer fatigue.

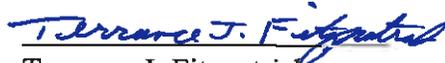
EAP objects to the comments of Shipley, Dominion Retail and IGS which suggest that lists should be updated or refreshed monthly. Some marketers further suggest that along with that effort, NGDCs should be required to include materials explaining the benefits of releasing the customer information. The additional expense attributable to these suggestions may not be warranted when balanced against the benefit to consumers. Again, providing for flexibility and not mandating these suggestions is the preferred route here where market conditions and the need for continual customer education can change over time as more customers shop.

III. Conclusion

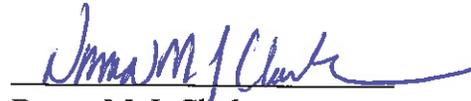
EAP supports efforts to improve the shopping experience for retail CHOICE customers and requests that any Final Order incorporate the suggestions set forth in its comments and reply comments to the instant Tentative Order establishing interim guidelines for NGDC Eligible Customer Lists. EAP believes its position achieves the appropriate balance to protect customer information as envisioned by the legislature and the court while encouraging shopping and provides NGDCs appropriate discretion and flexibility to comply while assuring that the effort

remains cost-effective and responsive of the needs of ratepayers and the developing retail market.

Respectfully submitted,



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Date: November 15, 2012