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July 29, 2014

VIA E-FILING

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

Re: Request for Clarification on Notice Requirements for Combined Electricity and
Natural Gas Disclosure Statements; 52 Pa. Code Sections 54.5, 54.10 and 62.75
Docket No. L-2014-2409385

Dear Secretary Chiavetta:

On behalf of Retail Energy Supply Association, I have enclosed for electronic filing the
Comments of Retail Energy Supply Association in the above-captioned matter.

Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,



Karen O. Moury

KOM/tlg
Enclosure

cc: Dan Mumford, Deputy Director, OCMO (*via e-mail*)
H. Kirk House, Director, OCMO (*via e-mail*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Request for Clarification of Notice :
Requirements for Combined Electricity : **Docket No. L-2014-2409385**
and Natural Gas Disclosure Statements; :
52 Pa. Code Sections 54.5, 54.10 and 62.75 :

**COMMENTS
ON BEHALF OF THE
RETAIL ENERGY SUPPLY ASSOCIATION**

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Attorneys for Retail Energy Supply Association

Dated: July 29, 2014

I. INTRODUCTION

By Tentative Order entered July 9, 2014, the Pennsylvania Public Utility Commission (“Commission”) sought comments on a proposal addressing the applicability of electric and natural gas contract renewal regulations in situations where a supplier serves a customer as both the electric generation supplier (“EGS”) and natural gas supplier (“NGS”). This proposal stemmed from a request for clarification received by the Commission’s Office of Competitive Market Oversight (“OCMO”) following a revision of the regulations applicable to EGSs, which resulted in inconsistencies in the customer notice requirements for electricity and natural gas products.

Specifically, Independence Energy Group LLC d/b/a Energy Rewards (“Energy Rewards”) noted that the notice provisions applicable to NGSs in Section 62.75(g)(1) of the Commission’s regulations, 52 Pa. Code § 62.75(g)(1), require that two notices be sent 90 and 60 days prior to the expiration of a natural gas contract to explain the customer’s contract renewal options. However, the new notice provisions applicable to EGSs in Section 54.10 (a) (1) and (2) of the Commission’s regulations, 52 Pa. Code § 54.10 (a) (1) and (2), require an initial notice to be sent 45-60 days prior to contract expiration and an options notice to be sent at least 30 days prior to contract expiration. Energy Rewards, as an EGS and NGS that sells combined electricity and natural gas products (“combined EGS/NGS”), expressed concern that in complying with all of these notice requirements, a combined EGS/NGS would be sending four notices to a customer within a fairly short timeframe, causing unnecessary confusion and resulting in a poor shopping experience for the customer. Energy Rewards proposed instead to send two notices to those customers receiving combined electric and natural gas service in accordance with the electric regulations.

The Commission agreed with the concerns expressed by Energy Rewards. However, rather than adopting Energy Rewards' proposal, the Commission proposed a different resolution on which it solicits comments. Specifically, in the Tentative Order, the Commission proposed that when a customer contracts for both electric and natural gas services from a combined EGS/NGS at the same service location, and the expiration dates for the services are within 30 days of each other, the combined EGS/NGS may issue only two renewal notices. This proposal is conditioned upon the combined EGS/NGS complying with the 90 day/60 day timeframes in Section 62.75(g)(1) of the Commission's natural gas regulations, 52 Pa. Code § 62.75(g)(1), and the combined EGS/NGS complying with the requirements in Section 54.10 (1) and (2) of the Commission's electric regulations, 52 Pa. Code § 54.10 (1) and (2), concerning content of the notices and the consequences of the customers not responding to the notices.

The Retail Energy Supply Association ("RESA")¹ appreciates the opportunity to provide comments and commends the Commission for its efforts to resolve a situation that would likely confuse and frustrate customers who are receiving both electric and natural gas services from a combined EGS/NGS. As is more fully discussed below, however, RESA urges the Commission to adopt uniform requirements governing renewal notice timeframes and content that are applicable to EGSs, NGSs and combined EGSs/NGSs and align with the newly-revised electric regulations. As long as the requirements differ for the two industries, the potential for customer

¹ RESA's members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent only those of RESA as an organization and not necessarily the views of each particular RESA member.

confusion and frustration will persist. Also, it is critical to implement requirements that are consistent with the Commission's goals of ensuring that consumers are aware of upcoming changes and that they respond timely and appropriately to contract renewal notices. Moreover, absent such uniformity, EGSs and NGSs will be subjected to an overly burdensome administrative process, which discourages the offering of combined products and otherwise interferes with the development of a competitive retail energy market.

II. RESA COMMENTS

Under the Commission's proposal in the Tentative Order, the retail energy market in Pennsylvania would have three sets of rules applicable to contract renewal notices, as follows:

1. NGSs would be required to send two notices at about 90 and 60 days prior to the contract expiration date, or the effective date of a proposed change in terms, to explain the customer's contract renewal options.²
2. EGSs would be required to send an initial notice 45-60 days prior to the contract expiration date, or the effective date of a proposed change in terms, and to send an options notice at least 30 days prior to contract expiration. The initial notice, which may be sent electronically, must contain specific information that goes beyond describing the customer's contract renewal options, such as explaining why a change in contract terms is necessary and addressing cancellation fees. The options notice, which must be sent by first class mail in a prominently marked envelope, must contain specific information that goes beyond explaining the customer's contract renewal options, such as providing new pricing information and an explanation that if the customer fails to respond, the contract will be converted to a month-to-month contract.³
3. Combined EGSs/NGSs, in specific situations including the expiration of contracts within 30 days of each other, would be required to send two notices at about 90 and 60 days prior the contract expiration dates, or the effective date of a proposed change in terms. These notices would be required to conform to the other requirements applicable to EGSs, including content, as summarized in Paragraph 2 above.⁴

² 52 Pa. Code § 62.75(g)(1).

³ 52 Pa. Code § 54.10 (a) (1) and (2).

⁴ Tentative Order at 5-6.

RESA urges the Commission to avoid implementing three sets of rules applicable to the retail energy market in Pennsylvania and to instead adopt uniform renewal notice requirements for EGSs, NGSs and combined EGSs/NGSs in all situations. In particular, RESA suggests that the contract renewal notice requirements applicable to the electric industry, including the timeframe and content, be applied to EGSs, NGSs and combined EGSs/NGSs. Under RESA's proposal, all EGSs, NGSs and combined EGSs/NGSs would send an initial notice 45-60 days prior to contract expiration date or the effective date of proposed changes. Additionally, all EGSs, NGSs and combined EGSs/NGSs would provide the same content in those notices, as currently required by Section 54.10 of the Commission's regulations, 52 Pa. Code § 54.10.⁵ Further, RESA proposes that combined EGSs/NGSs would have the option of sending separate or combined notices, provided that the timing and content of the notices comply with the Commission's requirements.

In the Tentative Order, the Commission acknowledged the value of having similar rules in place for both electric and natural gas services as a way of minimizing confusion for consumers and avoiding unnecessary costs for EGSs and NGSs. However, the Commission justified differences in the renewal notice requirements on the basis of different technological capabilities between the two industries, pointing to advanced metering capability in the electric industry. Specifically, the Commission explained that more compressed notice timeframes are now possible in the electric industry due to the 3-day period for switching to an EGS that is to be implemented by electric distribution companies ("EDCs") by the end of 2014.

⁵ RESA recognizes that the Commission may need to initiate a rulemaking proceeding to require NGSs to alter the content of the notice requirements and suggests that, in the interim, NGSs could be encouraged to do so through guidelines in the interest of consistency and enhanced consumer satisfaction with the retail energy market.

While RESA appreciates that at times differences between the industries require different sets of rules, this situation is not one of those times. To the contrary, from an operational standpoint, it is feasible to apply the same contract renewal notice requirements on EGSs, NGSs and combined EGSs/NGSs. Moreover, it is appropriate and necessary to do so in the interest of avoiding customer confusion and frustration with the competitive market. Customers who are actively shopping for electricity and natural gas and may at times be entering into contracts with different EGSs or NGSs, while at other times contracting with a combined EGS/NGS, would most certainly be confused by the receipt of notices at varying timeframes and containing different content, both in terms of the level of detail that is offered and the explanations as to what will occur if the customer fails to respond to the second notice.

As to the 3-day switching rules that have been directed by the Commission for the electric industry, RESA notes that those rules have not been implemented and are not required to be implemented until the end of 2014. *See Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 57 Regulations Regarding Standards for Changing a Customer's Electricity Generation Supplier*, Docket No. L-2014-2409383 (April 3, 2014).⁶ Also, even prior to the recent changes to accelerate switching in the electric industry, the Commission had adopted guidelines for issuance by EGSs of an initial notice 52-90 days prior to the contract expiration date and an options notice 45 days before the date on which the contract was set to expire. *See Interim Guideline Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service; Amendment re: Supplier Contract Renewal/Change Notices ("Interim Guidelines")*, Docket Nos. M-2010-2194286 and M-0001427 (September 23, 2010). The *Interim Guidelines*, which modified Section 54.5(g) of the Commission's electric

⁶ It is possible that EDCs will seek waivers of those directives and that there will be delays in the implementation of such changes.

regulations, at 52 Pa. Code § 54.5(g) (calling for three notices commencing 90 days prior to the expiration of a contract), were originally implemented at a time when it took up to 45 days for a switch to occur and they remained in place when the switching time period was reduced to 40 days. *See Interim Guidelines Regarding Standards for Changing a Customer's Electricity Generation Supplier*, Docket No. M-2011-2270442 (October 24, 2012). Since the Commission reduced the options notice to 45 days, even though it could take up to 45 days to make a switch, it is appropriate to reduce the options notice to 30 days for NGSs and combined EGSs/NGSs, especially since the notice requirements would then be consistent and avoid customer confusion.⁷

In addition, it would be administratively burdensome for EGSs and NGSs who provide combined products along with electric-only products or natural gas-only products, to follow different timeframes depending on whether the customer is receiving the combined products at the same location and whether the contract expiration dates are within 30 days of each other. To implement the proposed resolution in the Tentative Order, combined EGSs/NGSs would have to gather information from their systems, which is not readily available, for purposes of determining which set of rules apply, and use that information to alter the timeframes and content of the renewal notices. Also, it would require NGSs providing combined products to follow more detailed notice content requirements than have been imposed in the past and that their counterparts providing natural gas-only products are not following. In the interest of facilitating the development of a competitive retail energy market, any additional administrative burdens that make it more difficult for EGSs and NGSs to participate in the market or limit their

⁷ While RESA does not advocate for adoption of the electric *Interim Guidelines* for the natural gas industry, due to the fact that inconsistencies would continue, these timeframes (52-90 days for the initial notice and 45 days for the options notice) would be an improvement over the existing natural gas regulations and may be more workable for use by a combined EGS/NGS. Also, adoption of the electric *Interim Guidelines* for the natural gas industry would allow the Commission to address any concerns about the customer having the opportunity to switch to a different NGS upon receipt of the options notice.

ability to make innovative product offerings should be avoided. Additionally, requiring all EGSs, NGSs and combined EGSs/NGSs to follow the same set of rules will enhance consumer satisfaction with the retail energy market.

Finally, adoption of the resolution proposed by the Tentative Order means that NGSs, as well as combined EGSs/NGSs, would be continuing to follow the outdated notice timeframes that the Commission recently rejected for good reasons in adopting the final-omitted regulations. *See Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Expiration or Changes in Terms for Residential and Small Business Customers (“Contract Expiration Rulemaking Order”)*, Docket No. L-2014-2409385 (April 3, 2014). In particular, initial notices would continue being issued 90 days before the contract expires, negating the implied urgency of the situation requiring consumer attention.⁸ *Contract Expiration Rulemaking Order* at 29. Also, the options notice would continue being issued 60 days before expiration of the contract, possibly causing customers to act immediately and inadvertently incur cancellation fees. *Id.* As the Commission observed, “[b]y requiring the EGSs to send the Initial and Options Notices closer to the expiration or change in terms of a contract, it will make customers more cognizant of the upcoming change and will likely force customers to not delay in making an affirmative choice to either remain with their existing EGS, switch to alternative EGS or return to default service.” *Id.*

III. CONCLUSION

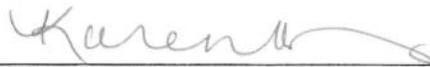
RESA urges the Commission to adopt uniform requirements governing renewal notice timeframes and content that are applicable to EGSs, NGSs and combined EGSs/NGSs and align

⁸ In fact, assuming that the Commission expects the combined EGS/NGS to issue the initial notice 90 days prior to the first contract that is expiring, this time period could be up to 120 days prior the second contract that is expiring.

with the recently-revised electric regulations. As long as the requirements differ for the electric and natural gas industries, the potential for customer confusion and frustration will persist. Also, it is critical to implement requirements that are consistent with the Commission's goals of ensuring that consumers are aware of upcoming changes and respond timely and appropriately to contract renewal notices. Moreover, absent such uniformity, EGSs and NGSs will be subjected to an overly burdensome administrative process, which discourages the offering of combined products and otherwise interferes with the development of a competitive retail energy market.

Respectfully submitted,

Dated: July 29, 2014



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