

*Thomas, Thomas, Armstrong & Niesen*  
*Attorneys and Counsellors at Law*

ORIGINAL

SUITE 500  
212 LOCUST STREET  
P. O. BOX 9500  
HARRISBURG, PA 17108-9500

CHARLES E. THOMAS, JR.  
Direct Dial: (717) 255-76151  
E-Mail: cthomasjr@ttanlaw.com

www.ttanlaw.com  
FIRM (717) 255-7600  
FAX (717) 236-8278

CHARLES E. THOMAS  
(1913 - 1998)

October 12, 2004

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

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2004 OCT 12 PM 4: 12  
SECRETARY'S BUREAU

In re: Docket No. I-00040103  
Investigation into Gas Competition

Dear Secretary McNulty:

Enclosed for filing on behalf of Equitable Gas Company ("Company"), a division of Equitable Resources, Inc., are an original and ten (10) copies of its Reply to Oral Comments of Randy Magnani, Amerada Hess Corporation, in connection with the above matter. Please contact us at your convenience if the Commission has any questions concerning this matter.

Very truly yours,

THOMAS, THOMAS/ARMSTRONG & NIESEN

By



Thomas T. Niesen

cc: Certificate of Service (w/encl.)  
Daniel L. Frutchey, Esquire (w/encl.)  
Stephen C. Rafferty (w/encl.)  
John Quinn (w/encl.)

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Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the : Docket No. I-00040103  
Natural Gas Supply Market :

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**REPLY TO ORAL COMMENTS OF  
RANDY MAGNANI, AMERADA HESS CORPORATION**

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AND NOW, comes Equitable Gas Company, a division of Equitable Resources, Inc. ("Equitable" or "Company"), by its attorneys, and files the following Reply to Oral Comments of Randy Magnani, Amerada Hess Corporation ("Hess"):

1. Equitable is the regulated utility division of Equitable Resources, Inc. Equitable is engaged in the purchase, distribution, sale and transportation of natural gas and serves over 258,000 residential, commercial and industrial customers in the City of Pittsburgh and adjacent territories in Allegheny, Armstrong, Butler, Clarion, Fayette, Greene, Indiana, Jefferson, Washington and Westmoreland Counties in Southwestern Pennsylvania.

2. Equitable is an active participant in this Investigation. It filed responses to the Public Utility Commission's Annex A requests on August 23, 2004. As a member of the Energy Association, it also supports the comments filed by the Association on September 17, 2004, and also reply comments filed on October 12, 2004 concerning generic matters related to supply competition. In addition, on September 27, 2004, Equitable filed its own reply to comments presented by Hess which had directly and without foundation attacked Equitable and Equitable's agency program.

3. At the In-Person Hearing on September 30, 2004, Randy Magnani testified on behalf of Hess and offered further comment concerning Equitable and its

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agency program. Equitable respectfully presents this further comment to the testimony of Mr. Magnani and Hess. This further comment is supplemental to Equitable's initially filed reply comment.

(a) First, Equitable has met with local Hess representatives many times and will continue to make itself available for similar meetings. In fact, on June 2, 2004 a meeting was arranged with an Equitable senior officer to discuss a variety of Hess issues with the understanding that Mr. Magnani would be attending. Ironically, and without any notice, Mr. Mangnani failed to attend the meeting. Although Mr. Magnani was absent, the meeting went forward and was attended by two Pittsburgh area Hess representatives. In Equitable's view, these meetings have in the past been positive. After a discussion of balancing tolerances at one of these meetings, Equitable made the decision to propose, in its 2004 1307(f) proceeding, a relaxing of its balancing tolerances as addressed at page 7, paragraph 8, of its reply comments. It is unreasonable, however, for Hess to expect substantial changes to the agency program through informal discussion. As explained at page 3, paragraph 7(a) of Equitable's reply comments, the agency program that is in place is the result of two formal, on-the-record, fully litigated proceedings.

Mr. Magnani stated that Equitable's agency program tariff language is too vague. Equitable's reply comments at page 3-5 explain the purpose of and the operation of the agency program. Equitable's goal is to keep customers with competitive options from leaving its distribution system for a competitor's distribution system.

Hess's real motive is to modify or eliminate Equitable's agency program to improve Hess's own bottom line, reduce competition, and possibly move Equitable customers to another NGDC's system. In other words, our unwillingness to "work through the issues" is simply "Hess speak" recognizing that Hess is frustrated with our efforts of trying to keep competitive customers on our distribution system.

(b) Second, Mr. Magnani erroneously described the agency program as a way for Equitable to stream lower cost gas supply to elastic customers at the expense of pushing higher cost gas to inelastic customers. Mr. Magnani's misstatement is twofold in nature. First, Equitable does not purchase supply for agency customers but only arranges for supply to be sold from vendors to customers at market prices. Second, Equitable's purchased gas costs are investigated each and every year in its annual Section 1307(f) proceeding. In not one of Equitable's Section 1307(f) proceedings has the Commission found or has it even been suggested that Equitable is pushing higher cost gas to its inelastic, 1307(f) customers as a result of the agency program. In addition to the annual 1307(f) proceeding, the Commission's Bureau of Audits also conducts an audit of each NGDC's annual purchased gas costs. Again, the Bureau of Audits has never issued a finding of the nature raised by Mr. Magnani's unsubstantiated allegation. Mr. Magnani stated in his testimony that there is no way for Hess to know if the streaming he suggests is actually occurring. The Commission, however, knows and the answer is, clearly, that it is not.

(c) Third, as almost all participants in the natural gas competitive market realize, if gas can be moved in a less expensive fashion on an NGDC other than Equitable in Western Pennsylvania, there is an incentive to a natural gas supplier to encourage the construction of competitive distribution facilities. This is because the ultimate market price the customer is willing to pay remains the same. However, lower delivery charges means a larger margin for the gas supplier. Hess's professed ignorance of this market reality, on the record in front of this Commission, is disingenuous at the very least. At worst, it was an intentional attempt to misinform the Commission. Equitable has a formal Complaint pending at C-20031128 challenging the construction in 2003 of a pipeline in the Golden Triangle Area of downtown Pittsburgh connecting Pittsburgh Allegheny County Thermal, Ltd. ("PACT"), a long standing customer of Equitable, with the existing facilities of Dominion Peoples. Equitable also has pending a civil proceeding against PACT wherein PACT has argued that Hess is an indispensable party in the proceeding. While PACT was a customer of Equitable, Hess was PACT's natural gas supplier and to the best of our knowledge is still its supplier. Equitable is aware of other instances where Hess has attempted to convince existing Equitable customers to switch their delivery service to a competing NGDC of Equitable.

(d) Fourth, as Equitable already explained at page 7, paragraph 9, of its Reply Comments, a third-party marketer has recently taken a significant portion of Hess' load on the Equitable system. This

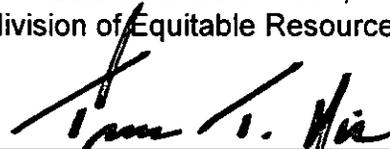
marketer, in effect, won the competition for this load and it did so without all the "unfair" advantages Hess erroneously asserts exist in favor of agency service. Thus, Equitable would respectfully suggest that the problem with Hess' loss of throughput is not related to an agency program which has been in place for more than ten years. It may well be for reasons internal to Hess.

WHEREFORE, Equitable Gas Company, a division of Equitable Resources, Inc., prays that the Pennsylvania Public Utility Commission consider this Reply to Oral Comments of Randy Magnani, Amerada Hess Corporation, and give Mr. Magnani's oral comments no dispositive consideration in this proceeding.

Respectfully submitted,

EQUITABLE GAS COMPANY,  
a division of Equitable Resources, Inc.

By



Charles E. Thomas, Jr., Esquire  
Attorney I.D. No. 07262  
Thomas T. Niesen, Esquire  
Attorney I.D. No. 31379  
THOMAS, THOMAS, ARMSTRONG & NIESEN  
212 Locust Street, Suite 500  
P.O. Box 9500  
Harrisburg, PA 17108-9500

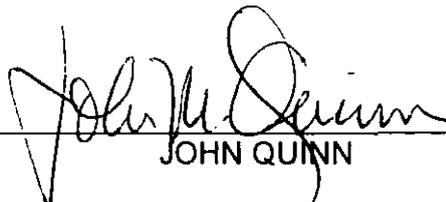
Daniel L. Frutchey, Esquire  
Attorney I.D. No. 69074  
Senior Vice President and General Counsel  
EQUITABLE GAS COMPANY  
200 Allegheny Center Mall  
Pittsburgh, PA 15212

Attorneys for  
Equitable Gas Company,  
a division of Equitable Resources, Inc.

DATE: October 12, 2004

AFFIDAVIT

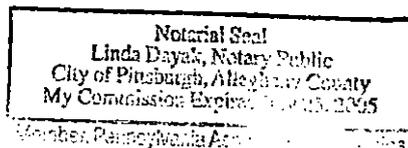
I, JOHN QUINN, being duly sworn according to law, depose and say that I am authorized to make this affidavit on behalf of Equitable Gas Company, a division of Equitable Resources, Inc., being the holder of the office of Director of Rates, and that the facts above set forth are true and correct to the best of my knowledge, information and belief and that Equitable Gas Company expects to be able to prove the same at any hearing hereof.

  
\_\_\_\_\_  
JOHN QUINN

Sworn and subscribed before me this 11th day of October, 2004.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: July 25, 2005



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Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Investigation into Competition in the : Docket No. I-00040103  
Natural Gas Supply Market :

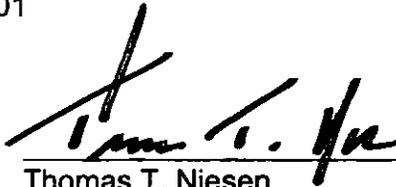
**CERTIFICATE OF SERVICE**

I hereby certify that I have this 12<sup>th</sup> day of October, 2004, served a true and correct copy of Equitable Gas Company's Reply to Oral Comments of Randy Magnani, Amerada Hess Corporation, upon the persons and in the manner indicated below:

**HAND DELIVERY**

Patricia Krise Burket  
Assistant Counsel  
Law Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

James H. Cawley, Esquire  
Rhoads & Sinon LLP  
One South Market Square  
Harrisburg, PA 17101



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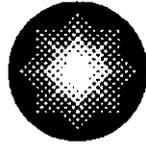
Thomas T. Niesen

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**Constellation  
NewEnergy™**

**Gas Division**

9960 Corporate Campus Drive  
Suite 2000  
Louisville, Kentucky 40223  
502-426-4500

October 12, 2004

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SECRETARY'S BUREAU

Mr. James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
2<sup>nd</sup> Floor, Room N201  
Harrisburg, PA 17120

Re: Docket No. I-00040103, Reply Comments of Constellation NewEnergy-Gas Division, LLC

Dear Secretary McNulty:

Pursuant to the September 10, 2004 Secretarial letter in this docket, Constellation NewEnergy-Gas Division, LLC respectfully submits the following Reply Comments for consideration by the Commission.

If additional information is requested, please contact me at (502) 214-6378.

Sincerely,

*Ralph E. Dennis*

Ralph E. Dennis  
Director Regulatory Affairs

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Enclosures

c: Martha Duggan  
Constellation NewEnergy, Inc.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural  
Gas Supply Market

Docket No. I-00040103

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SECRETARY'S BUREAU

**REPLY COMMENTS OF**  
**CONSTELLATION NEWENERGY-GAS DIVISION, LLC**  
**IN RESPONSE TO THE SEPTEMBER 30, 2004 EN BANC HEARING**

Pursuant to the September 10, 2004 Secretarial letter in this docket, Constellation NewEnergy-Gas Division, LLC ("Constellation NewEnergy-Gas Division") respectfully submits the following Reply Comments for consideration by the Commission.

**I. Scope of investigation.**

In its comments presented during the September 30, 2004 *en banc* hearing the Energy Association of Pennsylvania ("Energy Association") incorrectly concluded that the scope of this investigation is limited to issues regarding retail choice for residential and small commercial customers. Constellation NewEnergy-Gas Division believes the Energy Association confuses reason with purpose. The reason for the investigation is the statutory requirement present in the Natural Gas Choice and Competition Act ("Act"). The purpose of the investigation is as stated in the Commission's May 28, 2004 Order at page 2: "...to determine the level of competition that exists currently in the natural gas supply service market in Pennsylvania."

Neither the Act nor the Commission's May 28, 2004 Order creates the artificial distinction presented by the Energy Association. To the contrary, T.W. Merrill, General Manager of NRG Energy Center and an energy purchaser, and Amerada Hess, a licensed natural gas supplier in Pennsylvania, among others, presented clear and convincing evidence that the Act clearly requires an investigation that (a) encompasses all interested parties and (b) has as its subject matter gas supply services to any direct purchaser. Constellation NewEnergy-Gas Division does not wish to reiterate what the Commission has already heard; suffice it to say that the Act provides no distinction between residential/small commercial and large-volume customers for purposes of the investigation therein delineated. The Commission should reconvene the stakeholders to explore avenues to encourage more effective competition in Pennsylvania.<sup>1</sup>

<sup>1</sup> Constellation NewEnergy-Gas Division notes that Section 2204 (g) of the Act uses the term "effective competition." As we presented in our August 27, 2004 comments, Constellation NewEnergy-Gas Division has experienced a "reasonably liquid and transparent" market for the industrial customers we serve in Pennsylvania. However, we believe the issues raised in these reply comments, as well as the myriad of concerns expressed by licensed natural gas suppliers and others doing business in Pennsylvania, must be addressed to allow more opportunities for our customers and other retail end users in Pennsylvania, i.e., to create more effective competition.

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## **II. Unreasonable credit requirements.**

In its presentation during the September 30, 2004 *en banc* hearing the Energy Association stated that creditworthiness standards properly vary among Pennsylvania's natural gas distribution companies ("NGDC"). In addition, the Energy Association's written comments go further by placing the burden on the natural gas supplier to present evidence to the Commission that an existing credit standard is inappropriate, rather than reviewing such NGDC-specific standards in the instant investigation.<sup>2</sup>

Constellation NewEnergy-Gas Division respectfully disagrees that review of a utility's credit requirements for licensed natural gas suppliers should be outside the scope of the Commission's investigation into competition in Pennsylvania's natural gas market. Whether effective competition exists in the Pennsylvania natural gas market is the statutory reason for the investigation.<sup>3</sup> The credit standard imposed by an NGDC on a supplier goes to the heart and soul of whether a retail choice market is viable and competitive.

As stated by other suppliers licensed by the Commission, Constellation NewEnergy-Gas Division believes it is sound public policy to ensure that marketers wishing to supply retail end users in Pennsylvania are financially secure. However, unnecessary credit requirements can inhibit a supplier's ability to enter the market. Varying requirements among NGDCs within a statewide retail choice market can represent a disincentive to suppliers to expand, choosing to limit their activities to fewer markets in order to conserve financial resources. Constellation NewEnergy-Gas Division submits that both situations exist among NGDCs and the Commission should include NGDC credit requirements for licensed suppliers as an issue for further review by stakeholders.

The NGDCs would have the Commission believe that varying requirements among the utilities reflect different levels of exposure to default by suppliers. To the extent this was the case five or more years ago, as alleged by the NGDCs,<sup>4</sup> the Commission should revisit its earlier decisions on this matter and determine the validity of allowing continuation of NGDC-specific credit requirements. This goes to the very heart of the purpose for including section 2204 (g); the crafters believed (wisely, we believe) that what was true in the market in 1999 might evolve and change and be ripe for reconsideration five years later.

Standardization of credit requirements among NGDCs is one issue. Whether a gas supplier already licensed by the Commission should have additional credit requirements imposed, and, if so, should the NGDC performing a merchant function be the entity imposing additional credit review on the supplier, are larger issues also ripe for

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<sup>2</sup> Energy Association comments dated August 27, 2004, page 13.

<sup>3</sup> 66 Pa. C.S. § 2204 (g) states in part: "...the commission shall initiate an investigation or other appropriate proceeding...to determine whether effective competition for natural gas supply services exists on the natural gas distribution companies' systems in this Commonwealth."

<sup>4</sup> Energy Association comments dated August 27, 2004, page 13.

review by the Commission in this investigation. As we stated in our earlier comments,<sup>5</sup> during the course of this investigation the Commission should reconsider the role of the utility concerning the financial requirements of a licensed supplier, especially a supplier serving only large-volume end users.

### **III. Overly restrictive penalty provisions.**

At the September 30 *en banc* hearing the Energy Association stated that existing penalty provisions are appropriate and necessary as a deterrent. In its earlier comments the Energy Association raised the specter of the threat to reliability represented by the actions of suppliers that penalties are meant to prevent.<sup>6</sup>

Constellation NewEnergy-Gas Division believes the Energy Association misses the point. Constellation NewEnergy-Gas Division is unaware of any licensed supplier arguing that penalties should not be present. The issue to Constellation NewEnergy-Gas Division is whether the recovery of costs from penalties is excessive and inappropriate relative to the infraction. The Energy Association appears to argue that any level of recovery is necessary and justified, if approved by the Commission, in order to act as the required deterrent. Constellation NewEnergy-Gas Division respectfully suggests that an appropriate deterrence can exist while the amount of recovery is not exorbitant relative to the costs incurred by the NGDC; as an example, a cost-based penalty tied to the actual costs incurred by the NGDC and tied to a reasonable multiplier is one approach (absent habitual behavior by a supplier thereby justifying more punitive penalties).

Constellation NewEnergy-Gas Division recommends that the Commission revisit the issue of NGDC-specific penalty provisions currently in place. The Commission should determine whether, as the Energy Association suggests,<sup>7</sup> appropriate differences presently exist among the gas distribution companies that argue against more standardization of NGDCs' penalty provisions.

### **IV. Conclusion.**

Based upon the information presented in this investigation to this point in time by licensed suppliers, the NGDCs (as represented by the Energy Association), and other stakeholders, Constellation NewEnergy-Gas Division concludes that pursuant to § 2204 (g) of the Act the Commission should reconvene the stakeholders' collaborative to "explore avenues, including legislative, for encouraging increased competition in (Pennsylvania)."<sup>8</sup> Among the issues that should be addressed by the stakeholders' collaborative, Constellation NewEnergy-Gas Division specifically recommends the following be included:

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<sup>5</sup> Constellation NewEnergy-Gas Division comments filed August 27, 2004, pages 6-8.

<sup>6</sup> Energy Association comments at pages 13-14.

<sup>7</sup> *Id.* at page 13.

<sup>8</sup> See concluding sentence of § 2204 (g) of the Act.

A. NGDC business practices, including whether NGDC-specific credit requirements and penalty provisions should be more standardized in order to foster increased and more effective competition in Pennsylvania.

B. NGDC-specific operating rules,<sup>9</sup> including but not limited to pooling regulations, volumetric tolerances, trading of imbalances, and telemetry use and cost.

C. Capacity assignment and SOLR.<sup>10</sup>

Constellation NewEnergy-Gas Division appreciates the opportunity to submit these comments to the Commission in support of fostering competition in Pennsylvania's natural gas retail market. We look forward to working together with other licensed suppliers, NGDCs, and other stakeholders to develop recommendations for action that the Commission should take, or present to the Pennsylvania General Assembly as necessary, to support movement towards an effectively competitive retail natural gas market in this Commonwealth.

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<sup>9</sup> Constellation NewEnergy-Gas Division refers to the August 27, 2004 comments submitted by Amerada Hess, pages 9-10 and 12 regarding these issues.

<sup>10</sup>These two issues are directly relevant toward an evaluation of the retail choice market for residential and small commercial customers. However, unlike NGDC credit requirements, penalty provisions, and operational rules, neither of these issues has a direct impact on Constellation NewEnergy-Gas Division's business since we only serve large-volume commercial and industrial customers in Pennsylvania.

**Hawke**  
 **McKeon**  
  **Sniscak &**  
   **Kennard LLP**  
**ATTORNEYS AT LAW**

William T. Hawke  
Kevin J. McKeon  
Thomas J. Sniscak  
Norman James Kennard  
Lillian Smith Harris  
Scott T. Wyland  
Todd S. Stewart  
Craig R. Burgraff  
Janet L. Miller  
Steven K. Haas  
William E. Lehman  
Rikardo J. Hull

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

October 12, 2004

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2<sup>nd</sup> Floor)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

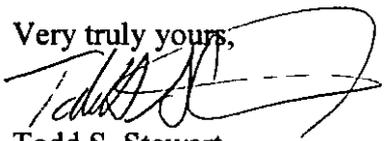
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2004 OCT 12 PM 4:26  
SECRETARY'S BUREAU

Re: Investigation Into Competition in the Natural Gas Supply and Market;  
Docket No. I-00040103; **JOINT REPLY COMMENTS OF DIRECT ENERGY SERVICES, LLC DOMINION RETAIL, INC., INTERSTATE GAS SUPPLY, SHELL ENERGY, AND SHIPLEY ENERGY COMPANY**

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and ten (10) copies of the Joint Reply Comments of Direct Energy Services LLC, Dominion Retail, Inc., Interstate Gas Supply, Shell Energy, and Shipley Energy Company in the above-captioned matter. Also enclosed is an electronic copy of the copy of these Comments.

If you have questions regarding these Comments, please do not hesitate to contact any of the undersigned company representatives.

Very truly yours,  
  
Todd S. Stewart

**DOCUMENT  
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TSS/tap  
Enclosure

**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Into Competition in the :  
Natural Gas Supply and Market : I-00040103

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**JOINT REPLY COMMENTS OF  
DIRECT ENERGY, DOMINION RETAIL, INC.,  
INTERSTATE GAS SUPPLY, SHELL ENERGY,  
AND SHIPLEY ENERGY COMPANY**

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Direct Energy Services LLC, Dominion Retail, Inc., Interstate Gas Supply, Shell Energy and Shipley Energy Company (collectively "NGSs"), hereby jointly offer their responses to the Comments and Testimony provided by various parties in the above-captioned proceeding.

The purpose of the current investigation is to provide the foundation for the report which the Pennsylvania Public Utility Commission ("Commission") must make to the General Assembly regarding the status of competition in the Commonwealth. 66 Pa. C.S. § 2204(g). Upon the Commission's finding that sufficient competition does not exist, it should take all appropriate steps to improve competitiveness. As a threshold matter, the NGSs believe that it is beyond question that sufficient competition does not exist in the gas supply markets in Pennsylvania, and that competition is declining rather than increasing.

Pennsylvania was one of the first states to make the switch to competition in gas markets, at a time when very few competitive models existed. As competition has progressed, however, several hindrances to competition have emerged, with some being more obvious and obstructive than others. The NGSs believe that all parties are best

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served by working cooperatively in addressing these issues, so that competition is given the best opportunity to flourish. The following comments are intended to respond to the positions taken by other interested parties and to refine what the NGSs believe to be the best solutions.

**1. The Price To Compare Has Failed As A Competitive Pricing Benchmark.**

The Consumer Advocate makes the point (OCA Comments, pg. 5) that the price to compare is difficult for customers to understand. The NGSs agree. However, the NGSs do not agree with the OCA's conclusion that gas charges that change to reflect market prices are bad for customers. The truth is that even though the SOLR charges that customers see may not change on a monthly basis, customers nonetheless ultimately pay a price based upon the variable charges, and because of the perverse incentives of the 1307(f) mechanism, customers end up paying additional charges for interest on the under-recovered amount. Moreover, the current mechanism masks the actual price of gas so that customers have little to no good information upon which to base consumption decisions, to the extent they wish to do so. The view that customers cannot manage their affairs in a world where prices change in response to market conditions simply is not born out by experience. In the real world, customers act in response to changing market prices every day. At a minimum, customers must begin to see something close to a real price, such as monthly pricing. At present, customers only see an artificial price that changes less often, and where the price of the forecasting error, the 4% interest rate that customers pay to NGDCs on under collections, is hidden from the customers who pay it. The OCA's view perpetuates the myth that is at the heart of the problem with the price to compare, namely, that default service, and the price to compare associated with it, is

fixed price service. Simply put, a system that does not provide customers with actual price information disservices those customers and will prevent the development of a competitive market.

The gas cost rate upon which the price to compare is based, is a projection of future gas prices, is reconcilable on a dollar for dollar basis, and most certainly is not a fixed price, but rather, is a variable price. Moreover, because of the perpetual difference between the GCR and the actual experienced gas costs of the NGDCs, the GCR (and hence the price to compare) never represents, in a current period, the actual price that a customer pays for a given volume of gas.<sup>1</sup>

The negative impact of the gas cost rate as a competitive bogey has come completely into focus as gas prices continue to rise and as NGDCs continue to underestimate those increases in setting the gas cost rates. The result for competition is that customers are comparing NGS's competitive offers, which are based upon actual market costs, against GCR rates which in almost every instance underestimate the actual cost of gas. The only way to make a valid comparison is to advance the clock 2 or 3 years, to determine the total amount of natural gas costs that a customer actually paid an NGDC for a particular volume of gas (as well as the associated interest charges). That total price would be substantially different than the price that customers understand they are paying today. Suppliers simply cannot make an offer to customers along the lines of, "I'll only charge you \$5.00/mcf today but oh, by the way, next year, I am going to ask you to pay me \$2.00 an mcf more, for the same gas, on top of what I charged you this

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<sup>1</sup> See, Report of the Government Accountability Office "Electricity Markets: Consumers Could Benefit from Demand Programs but Challenges Remain," (August 2004, GAO-04-844) <http://www.gao.gov/new.items/d04844.pdf>. The report finds that one of the most significant hindrances to demand programs in electric markets is regulated prices that mask market costs from customers.

year, just to make sure I charge you the exact amount.”<sup>2</sup> But, that is what NGDCs are required to do. NGSs, by contrast, generally offer fixed and unreconcilable rates for fixed periods.

Section 1307(f) of the Public Utility Code clearly creates an incentive to under-collect as it penalizes NGDCs for over-collecting. In today’s volatile market, the chances of an NGDC accurately predicting future gas costs are slim. Hence the GCR rates based upon such predictions are unlikely to hit the mark. Economic prudence demands that the NGDCs err, if at all, by underestimating those gas costs to avoid the 6% over collection penalty.

The price to compare (“PTC”) is not a creature of statute, but rather, was created by the Commission to be a competitive benchmark, even though it is based upon the GCR. A statutory change may not *necessarily* be required to fix the problem with the inaccuracy of the PTC, but it appears to be the best way to do so. Simply changing the method of calculating the PTC would be an incomplete solution, at best, because it appears that customers are more likely to look at the price of gas on their gas bill when considering an NGS offer, than to consider the PTC posted on some website. In any event, whatever competitive benchmark is used must accurately reflect changing market prices.

If the Commission does decide to propose a statutory change, such changes could include requiring the NGDCs to adjust the GCR on a monthly basis to reflect actual costs as they are incurred, or, creating a bandwidth around the GCR such that if the NGDC stays within that bandwidth over the reconciliation period, there would be no penalty in

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<sup>2</sup> The OSBA has gone so far as to suggest that NGSs simply cannot compete because NGDCs are better at buying gas. Such a position cannot be supported.

the form of interest paid to customers on over collections and no interest collected from the customers for under collection. There may be other solutions that have yet to be proposed. At the end of the day, however, there can be no doubt that neither the PTC, as currently calculated, or the PGC are adequate competitive benchmarks. Neither reflects the true cost of gas for serving a particular customer in the current period, nor provides accurate information to customers. Consequently, customers cannot make informed decisions, which compromises the competitive market.

One other problem that also plagues the price to compare is that it does not represent all of the costs associated with SOLR service, while the suppliers competitive offers necessarily do include such costs. The NGSs recognize the complexity of unbundling these costs, but nonetheless believe that such requirements are essential to improving market competitiveness. Unbundling of the SOLR costs is a necessary part of any approval of an alternate SOLR, which was clearly contemplated by the legislature. 66 Pa. C.S. § 2207.

The NGSs agree that creating a competitive target that more accurately reflects the cost of SOLR service, and therefore, more closely matches a market price for gas, and which includes all of the SOLR related costs of the NGDC, will have a positive impact on the state of competitiveness in Pennsylvania. The time for finger pointing is over, the problem exists and must be fixed.

## **2. NGSs Should Be Able To Provide Seamless Service To Their Customers**

A historic look at the shopping statistics over time makes it clear that enrollment in the competitive market is declining. The Commission could go a long way to helping competitive markets improve and grow simply by allowing NGSs to continue their

relationships with customers when those customers move within an NGDC service territory.<sup>3</sup> Because NGSs currently are not permitted to continue serving customers through the move process, and are not permitted to act as the agent for the customer in contacting the NGDC and arranging for the move and arranging for the continuation of NGS service, NGSs lose most, if not all, of their moving customers every year.<sup>4</sup> Such interruptions in service prejudice customers, since they lose the benefit of long term fixed price contracts that they have elected to sign on to, and NGSs lose, because they lose customers and the investment they have made to acquire those customers. Such unnecessary interruptions in NGS service mean that NGSs must increase their customer rolls by an equivalent amount of customers per year, just to tread water and maintain the status quo.

The NGSs should be allowed to provide seamless service to customers, that is, once a customer establishes a relationship with the NGS, the NGS should be capable of maintaining its service to that customer wherever that customer moves within an NGDC service territory. NGSs currently lose customers for no good reason, just because they move, and even if the move is only across the street.

### **3. Penalties And Imbalance Charges Should Be Market Based**

The current system of penalties and imbalance charges is in need of reform. In most NGDC service territories, the penalties associated with imbalances are arbitrary in amount, that is, they do not solely reflect the cost of replacing the gas that was short or disposing of excess gas. In some instances, these penalties can be more than ten times

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<sup>3</sup> As Matt Sommer of Shipley Energy testified, approximately 10% of Shipley's customers move every year. Additionally, some NGSs have experiences in other states where customers may be returned to SOLR service simply by altering some aspect of their billing information. Customers should not be returned to SOLR service, under most circumstances, unless they make that choice.

<sup>4</sup> NGSs cannot act on a customer's behalf to initiate new service under any circumstances.

the actual replacement cost. Requiring suppliers to pay as much as ten times the replacement cost for gas for being a few decatherms short on a non-critical day does nothing to improve reliability, since such an under delivery is not likely to be the result of intentional behavior.

The NGSs agree with the Office of Small Business Advocate, that it is appropriate to readjust the penalty structure. In particular, there should be a bandwidth around the delivery requirement for any particular day so that if a supplier delivers within that bandwidth there is no penalty and the supplier simply pays for the gas at the replacement cost of the NGDC. Deliveries outside of that bandwidth would be charged at the market price of gas for that day, which may differ from the NGDCs replacement costs. Being “on the hook” for the market price would create sufficient disincentive for NGSs to divert gas supply, since the “penalty” in the form of a market price would be equivalent to the highest price an NGS could obtain by diverting their gas. The NGSs agree that actual administrative cost should be included as well, and for NGSs that consistently deliver outside of the bandwidth, the Commission may wish to consider an additional adder.

Coupled with this review of imbalance penalties, the Commission should also look at the nomination and delivery rules across NGDCs, with the goal of creating uniformity and fairness. Simply put, NGSs believe that they should not be required to abide by such rules that are more onerous than those applied to the SOLR supplier, whomever it may be. In undertaking its review of these requirements, the Commission should bear in mind that system reliability can be maintained and competition can be improved at the same time; these two goals are not mutually exclusive. Market based penalties can ensure delivery, and fair and flexible nomination rules will not necessarily

allow suppliers to harm NGDCs. This Commission has made it clear that it prefers market based solutions in competitive markets and the NGSs ask the Commission to consider such concepts here.

**4. NGDC Security Requirements Should Be Transparent And Fair**

NGDC security requirements for NGSs serving on their systems are varied by design across the Commonwealth. The NGSs nonetheless believe that those security requirements should be based upon verifiable and readily identifiable criteria and based upon the actual exposure that the NGS causes by reason of its service on the NGDC's system. Moreover, in keeping with the current statutory and regulatory scheme, either the NGS or the NGDC should be able to propose adjustment to the actual exposure based upon the level of risk of the supplier actually defaulting. That is, the Commission's regulations set up what is essentially a two-tiered process. In the first tier, the security should be based upon the actual exposure. In the second tier, the actual exposure can be adjusted based upon that individualized risk or lack of risk factors depending on what the case may be. If an NGS can show the NGDC that the NGS has a significantly lower risk of default, the amount of security can be adjusted downward. Conversely, if the NGDC were able to show that a particular NGS was a higher than average risk for default, the NGS could propose to adjust the security upwards. The Commission would remain the final arbiter of any disputes and should monitor security requirements to ensure fairness and uniformity.

Such a system assumes that any NGSs meeting the same requirements will be required to post the same amount of security per customer. Such a system creates fairness among suppliers and prevents discrimination or any potential anti-competitive

behavior. The NGSs agree that arbitrary security requirements can create a barrier to entry into the competitive market place. The Commission also should ensure that each NGDC allows NGSs to post security that meets the NGDC's and NGS's needs, including a full menu of security alternatives. NGDCs should not be permitted to require only a single form of security, or a non-industry standard form. At a minimum, NGDCs should be required to accept industry standard bonds, letters of credit, cash collateral or corporate guarantees (from entities that have investment grade debt ratings).

**5. NGDCs Should Be Required To Purchase NGS Receivables.**

The NGSs agree that NGDCs that provide billing services should purchase the receivables of the suppliers. NGSs believe that the NGDCs should be made whole for undertaking this obligation. NGDCs that purchase receivables should be permitted the same range of collection options as the agents for the NGS that they enjoy for SOLR service. This would allow NGS customers to be treated in the same way in which NGDC customers are treated. Purchase of NGS receivables is part of the transition to fully unbundling bad debt costs from base rates. Bad debt is one of the most significant costs faced by NGSs that have not been unbundled from those base rates, but which suppliers must include in their pricing. When markets are more mature, NGSs should have the same billing and collection opportunities that NGDCs have today, but until that happens, requiring the purchase of receivables is an essential step in the right direction.

**6. The NGSs Have Not Proposed "Ugly" SOLR Service**

Both the OCA and the OSBA take issue, at length, with the notion of ugly SOLR service. The NGSs want to make it clear to the Commission that they are not proposing ugly SOLR service. They uniformly agree that the commodity costs that customers pay

should be the true cost of the commodity. The NGSs are not proposing to artificially inflate those charges to allow for competition. That is not to say, however, that the NGSs agree that the current ways in which commodity charges are presented to customers are accurate or reflect the true cost of the gas. That is because the PTC is based upon the GCR, which cannot realistically reflect the full cost of gas in the current period, and which does not include all SOLR related costs.

The NGSs do not believe that any artificial price increase is required to move customers to the competitive market. Moreover, while it may not appear that any single suggestion offered herein for improving the competitive marketplace would be singularly sufficient to allow for increased competition, the collective effect of all of these changes--if made--will dramatically increase the ability of marketers to make competitive offers.

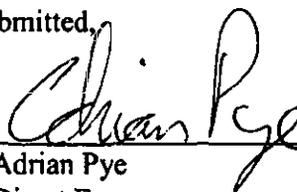
#### **Conclusion**

NGSs, therefore, request that the Commission reach a determination that: 1) the competitive market place in Pennsylvania is not sufficiently competitive; 2) participation in the competitive market is on the decline; 3) changes are required to improve competitiveness; and, 4) such changes are worthwhile. The NGSs ask that the Commission then consider the following actions, which they believe are necessary to achieving that goal as part of an ongoing process to improve competitiveness statewide:

1. Create a competitive benchmark that reflects the actual cost of gas experienced by the individual NGDCs on a more real- time basis (monthly) as discussed herein;
2. Require NGDCs to purchase receivables;
3. Allow NGSs to provide seamless service to their customers within an NGDC service territory;

4. Examine the imbalance penalty provisions of the various NGDC supplier tariffs and require that all such penalties be market based;
5. Require that security requirements be based upon identifiable and transparent factors and at the threshold reflect the actual risk imposed by any particular supplier on the NGDC, with the ability for either the NGDC or the NGS to adjust upward or downward based upon individualized factors;
6. Consider the unbundling of competitive services currently provided only by the NGDC which could otherwise be provided by competitive market place;
7. Promote uniformity of rules between NGDCs to the greatest extent practical; and,
8. Institute any other changes which tend to improve the competitiveness of the current market place.

Respectfully submitted,



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Adrian Pye  
Direct Energy

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Vincent Parisi  
Interstate Gas Supply

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Harry J. Kingerski  
Shell Energy

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Thomas J. Butler  
Dominion Retail

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Matthew Sommer  
Shipley Energy

October 12, 2004

Respectfully submitted,

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Dated: October 12, 2004

Respectfully submitted,

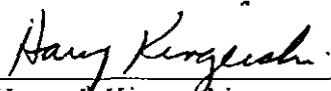
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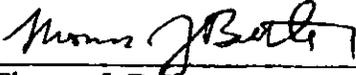
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**Interstate Gas Supply**

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Dominion Retail



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Matthew Sommer  
Shibley Energy

October 12, 2004

**H**awke  
 **M**cKeon  
  **S**niscak &  
   **K**ennard LLP  
ATTORNEYS AT LAW

William T. Hawke  
Kevin J. McKeon  
Thomas J. Sniscak  
Norman James Kennard  
Lillian Smith Harris  
Scott T. Wyland  
Todd S. Stewart

Craig R. Burgraff  
Steven D. Snyder  
Janet L. Miller  
Steven K. Haas  
William E. Lehman  
Rikardo J. Hull  
Katherine E. Lovette

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

October 12, 2004

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

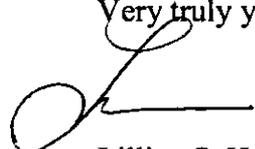
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SECRETARY'S BUREAU

RE: Investigation Into Gas Competition; Docket No. I-00040103

Dear Secretary McNulty:

Pursuant to the directive of Presiding Administrative Law Judge Susan D. Colwell communicated at the Commission's September 30, 2004 *en banc* hearing in this matter, The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples") hereby submits an original and ten (10) copies of its Reply Comments for filing with the Pennsylvania Public Utility Commission. Also enclosed is a disk containing an electronic copy of the Reply Comments.

If you have any questions regarding this filing, please contact me. Thank you for your attention in this matter.

Very truly yours,  
  
Lillian S. Harris

DOCUMENT  
FOLDER

LSH/kml  
cc: Patricia Krise Burkett, Esquire (via email)  
Robert Bennett (via email)  
William E. McKeown

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Into Competition in the  
Natural Gas Supply Market

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Docket No. I-00040103

SECRETARY'S BUREAU

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**REPLY COMMENTS OF  
THE PEOPLES NATURAL GAS COMPANY  
d/b/a DOMINION PEOPLES**

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Pursuant to the directive of Presiding Administrative Law Judge Susan D. Colwell communicated at the September 30, 2004 *en banc* hearing in this matter, The Peoples Natural Gas Company d/b/a Dominion Peoples ("Dominion Peoples") hereby replies to the comments and testimony provided by the other parties in the above-captioned proceeding. Dominion Peoples appreciates the opportunity to submit these reply comments for consideration by the Pennsylvania Public Utility Commission ("Commission").<sup>1</sup>

**DOCUMENT  
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**I. INTRODUCTION**

The Commission's task in this proceeding is to report to the General Assembly regarding the state of natural gas supply competition in the Commonwealth. In so doing, the Commission must evaluate whether effective competition exists. Reasonable minds should agree that the basic purpose of the Choice Act was to provide for retail choice of natural gas suppliers to all customers, but not at the expense of NGDC system reliability

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<sup>1</sup> Dominion Peoples also supports the comments submitted today by the Energy Association of Pennsylvania.

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or safety. The legislation was a balanced effort to encourage competition, while at the same time maintaining safe and reliable natural gas service to end-users.<sup>2</sup> These dual goals were evidenced by the General Assembly's: inclusion of capacity assignment provisions in the Choice Act, careful consideration of Supplier of Last Resort service, retention of the 1307(f) mechanism as the method by which NGDCs recover their gas costs, establishment of financial fitness requirements for Natural Gas Suppliers ("NGSs") and imposition of stringent affiliate standards. It is with these points in mind that the Commission should embark on its process of developing its report to the General Assembly.

## **II. REPLY COMMENTS**

### **A. Effective Competition Exists in This Commonwealth -- Even With Choice, Some Customers Will Continue to Choose The NGDC As Their Gas Supplier**

As discussed in the prepared Direct Testimony of William E. McKeown, Dominion Peoples' Director, Pricing and Regulatory Affairs<sup>3</sup> submitted on August 27, 2004 in this docket, Dominion Peoples considers choice to be a success on its system. Dominion Peoples began a transition to retail choice well in advance of the 1999 Legislation. While Dominion Peoples has seen some decline in the number of transportation customers since 1999, volumetrically, transportation today on Dominion Peoples' system still represents greater than 50% of its total throughput. Thus, Dominion Peoples respectfully submits that before the Commission decides to recommend any

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<sup>2</sup> 66 Pa.C.S. § 2203(1) and (2).

<sup>3</sup> See Dominion Peoples' Statement No. 1.

major reworking of the Choice Act,<sup>4</sup> the 1307(f) mechanism in the Public Utility Code (“Code”),<sup>5</sup> the Commission should have a clear sense that demonstrable benefits to consumers will likely result without visiting demonstrable detriments upon Natural Gas Distribution Companies (“NGDCs”) and the safety and reliability of their systems.

Numerous NGSs have advocated changes to the Choice Act, the Commission’s regulations and NGDCs’ approved tariff rules and regulations (that were negotiated through hard-fought settlements) in the name of increasing natural gas supply competition. The Commission has the hard job of determining whether the payoff of undertaking these changes will be “worth the effort”. In undertaking this task, the Commission should take to heart the comments and testimony of the Consumer Advocates on this topic who are charged with representing the residential and small commercial customers in this Commonwealth.

For example, as noted by Office of Consumer Advocate in his Initial Comments:

In general, residential customers have been and likely will continue to be slow to change to alternative suppliers for many reasons. There are customers who are unwilling or reluctant to make any change, and others who may believe that the savings on the bill would be too small to undertake the complicated comparisons and choice. Furthermore, there are relatively few natural gas suppliers actively marketing to residential customers – even in those NGDC service territories with higher shopping levels.<sup>6</sup>

The Office of Small Business Advocate suggested in oral testimony at the September 30, 2004 *en banc* hearing in this matter that having 40-50% of gas customers

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<sup>4</sup> The Natural Gas Choice and Competition Act, 66 Pa. C.S §§ 2201 *et seq.*

<sup>5</sup> 66 Pa. C.S. § 1307(f).

<sup>6</sup> OCA Comments at 4.

choosing alternate suppliers is significant and that if we had the same result in electric markets “people would be doing handstands.”<sup>7</sup>

**B. Adequate Affiliate Standards Are In Place And Do Not Require Modification.**

Some commenters suggest that stricter affiliate standards of conduct must be adopted in order to address perceived NGDC preferential treatment of gas marketing affiliates. These comments come as quite a surprise to Dominion Peoples given that no marketer filed any comments in the Commission’s pending rulemaking docket adopting permanent affiliate standards of conduct at Docket No. L-00030162.<sup>8</sup> These comments are a late-filed and collateral attack on the Commission’s pending rulemaking and should not be permitted. Furthermore, the affiliate standards, as presently framed, provide extensive and adequate measures to protect against NGDC/affiliate abuse. It bears noting that, since the binding interim standards of conduct have been in place, not a single complaint against Dominion Peoples has been filed with the Commission alleging affiliate abuse.

While allegations of improper discounting of delivery rates were made at the *en banc* hearing, no factual detail to substantiate such conduct was presented to the Commission.<sup>9</sup> As for its own experience, Dominion Peoples negotiates delivery rates with its competitive customers and not with the gas supply marketer. These negotiations

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<sup>7</sup> Testimony of William L. Lloyd, Jr., Small Business Advocate, Tr. at 70.

<sup>8</sup> Proposed Rulemaking Permanent Standards of Conduct, Docket No. L-00030162, 34 Pa. Bulletin 2071 (April 17, 2004), 52 Pa. Code § 62.142.

<sup>9</sup> Tr. at 51-52.

center around the customer's competitive options like receiving delivery service through another NGDC, or switching to alternative fuels. The customer's choice of supplier has nothing to do with Dominion Peoples' negotiation of that customer's delivery rate. Simply put, the Commission should not act on mere innuendo and general and unsupported assertions about sweetheart deals that are completely unsubstantiated.

Finally, an affiliated supplier is just another choice for the customer that some suppliers may want to "knock out of the box" by having affiliate conduct rules that are so stringent that they hamstring the affiliated supplier. Dominion Peoples submits that the Commission should not make the current affiliate standards stricter where there have been few or no complaints about the existing standards and where all parties were given an opportunity to comment on the standards in the pending rulemaking.

**C. A Fully-Loaded GCR Must Be Developed In the Context of An NGDC Base Rate Proceeding.**

Several NGSs have argued that the NGDCs' Gas Cost Rates ("GCR") should include all costs that are related to the gas supply function and that some of these costs currently are bundled in the distribution rate, but should be split out and recovered through the GCR mechanism. While Dominion Peoples does not oppose this concept in theory, splitting the costs out of distribution rates must be done in the context of a NGDC base rate case. Consumer Advocate Popowsky's testimony at the *en banc* hearing appears to be consistent with this conclusion.<sup>10</sup> While OCA's utmost concern is that the costs are not double recovered by the NGDC in distribution rates as well as through the

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<sup>10</sup> Tr. at 78-79.

GCR, sorting out “where the costs are” would require, in Dominion Peoples’ view, examination in a base rate proceeding.

**D. NGDCs That Purchase NGS Receivables Should Be Made Whole.**

In its prepared direct testimony, Dominion Peoples suggested the establishment of a bad debt tracker for the NGDC where it purchases the NGS’s receivables. Dominion Peoples submits that NGDCs should be made whole for purchasing receivables – one of the only undertakings that the NGSs and NGDCs agree could jumpstart additional customer choice in this Commonwealth. However, imposing the requirement to purchase receivables without the quid pro quo of establishing a bad debt tracker would inordinately shift NGS collection risk to the NGDC with no assurance of recovery.

Even though OCA favors the concept of NGDCs purchasing NGS receivables, OCA nevertheless opposes the establishment of a bad debt tracker in conjunction therewith, citing to this Commission’s recent decision in the Philadelphia Gas Works proceeding at Docket No. P-00042090 as the basis for its position. The cash receipts reconciliation mechanism proposed by PGW and rejected by the Commission involved far more than just a bad debt tracker. Dominion Peoples urges the Commission not to reject a bad debt tracker out of hand for purposes of this investigation merely on the assumption that it would be set up the same way as the PGW proposal. Instead, the Commission should evaluate the perceived benefits of establishing a bad debt tracker that

is designed to make the NGDC whole for the receivables it is purchasing, without the additional “bells and whistles” that were involved in the PGW matter.

Under Dominion Peoples’ current process, where NGSs are paid exactly what their customers pay, Dominion Peoples’ is not exposed to the NGSs’ supply cost non-payment risk. Thus, Dominion Peoples does not support the idea of purchasing NGS receivables without the establishment of a bad debt tracker.

Some commenters advocate that NGS receivables should be purchased at a minimal discount rate. Dominion Peoples responds that the discount rate mechanism is essentially a wildcard for the NGDC because predicting what the discount rate should be is a process that is easier said than done. The discount rate mechanism simply shifts risk to the NGDC whereas the bad debt tracker would allow the NGDC to be made whole in the event that the gas supply costs are uncollectible. Therefore, if the Commission decides that having NGDCs purchase NGS receivables is likely to encourage NGS competition in Pennsylvania and that is the goal to be pursued, it should couple the purchasing receivables concept with a bad debt tracker.

### **III. CONCLUSION**

Dominion Peoples appreciates the opportunity to file reply comments in this

proceeding and requests that the Commission consider the positions taken herein in preparing its report to the General Assembly.

Respectfully submitted,



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Lillian S. Harris  
William T. Hawke  
Hawke McKeon Sniscak & Kennard LLP  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105

Susan G. George, Esquire  
Dominion Resources  
625 Liberty Avenue  
Pittsburgh, PA 15222

Counsel for The Peoples Natural Gas  
Company d/b/a Dominion Peoples

Dated: October 12, 2004

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Investigation into the Competitiveness )  
of the Natural Gas Supply Market )

Docket No. I-00040103

REPLY COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA

As directed by ALJ Colwell during the September 30, 2004 *en banc* hearing in the referenced docket,<sup>1</sup> the Energy Association of Pennsylvania (the "Energy Association"), acting on behalf of its natural gas distribution company ("NGDC") members,<sup>2</sup> submits the following reply to the other parties' *en banc* testimony:

1. ***Given legitimate economic distinctions among customer classes and the overall construct of the Natural Gas Choice and Competition Act, "effective competition" exists for purposes of Section 2204(g).***

In this proceeding under Section 2204(g) of the Gas Restructuring Act, the question before the Commission is "whether effective competition for natural gas supply services exists on the [NGDCs'] systems. . . ."<sup>3</sup> For industrial and other large-volume, high-load-factor customers (commonly known as "the non-core market") the answer is a resounding "yes" — and it has been a resounding yes for many years. Consider the testimony of the Small Business Advocate:

It also seems to me that we ought to take account of the fact that in electric, people would be doing handstands, marketers included, if 40 to 50 percent of all the electricity delivered in Pennsylvania were being provided by non-utilities.

But when you add in the gas that's being transported for large C&I customers, that's what you have today for gas, 40 to 50 percent.<sup>4</sup>

<sup>1</sup> Tr. 79.

<sup>2</sup> As defined in the the Natural Gas Choice and Competition Act [hereinafter the "Gas Restructuring Act"], see 66 Pa.C.S. § 2202. While these rebuttal comments reflect a consensus among the Energy Association's NGDC members, they do not preclude or constrain any member from filing comments in its individual capacity.

<sup>3</sup> 66 Pa.C.S. § 2204(g).

<sup>4</sup> Tr. 70.

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Natural gas supplier ("NGS") presence in the non-core market is the result of clearly definable economic factors. NGDC sales rates reflect the composite cost of serving all their sales customers, and within any one rate customers with higher load factors subsidize those with lower load factors. Because non-core customers generally have higher load factors than core customers, they can reduce their per unit natural gas cost by leaving NGDC sales service for service provided by a marketer (or acquired directly) through a dedicated stream of firm interstate or local transportation or storage capacity.<sup>5</sup> In addition, some non-core customers are willing to take interruptible service because they can switch to an alternate fuel or suspend operations. Interruptible capacity is significantly less expensive than firm capacity, providing yet another economic incentive for a non-core customer to leave NGDC sales service.

These economic factors are not present for residential and other small-volume, low-load-factor customers (commonly known as "the core market"). The Gas Restructuring Act extended choice to the core market, allowing core customers to receive competing offers and allowing NGSs to extend those offers. At the same time, the General Assembly recognized the absence of incentives that would make these customers attractive to NGSs, and it framed the Gas Restructuring Act to protect the core market by ensuring that NGDCs would continue to serve core customers at "supplier of last resort" rates regulated under Sections 1307, 1317 and 1318 of the Public Utility Code.<sup>6</sup> As evidenced by the testimony of the Consumer Advocate and Small Business Advocate, these provisions have worked without customer complaint.

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<sup>5</sup> As one witness put it, "I believe there's competition in the large C&I market because marketers are trading capacity, bringing capacity to the market." Tr. 75.

<sup>6</sup> 66 Pa.C.S. §§ 1307, 1317 and 1318. In its orders regarding the NGDCs' restructuring plans, the Commission further protected the low-income portion of the core market by directing significant expansions to customer assistance programs ("CAPs"). As CAP rates are even lower than regulated SOLR rates, it would be all the more difficult for an NGS to provide an attractive rate to this segment of the core market.

NGS activity in the core and non-core markets has been as expected given the economics of the industry. The reasons for the different levels of activity are economic, not legislative, and to cite the Small Business Advocate there are no “things within the parameters the Legislature set which are creating unnecessary impediments to competition.”<sup>7</sup> Accordingly, there is ample reason for the Commission to conclude that — for purposes of Section 2204(g) — effective competition does exist.

**2. *Testimony from the NGSs repeatedly attempts to use this proceeding to explore issues that should be raised through procedures that already exist under the Gas Restructuring Act and the Commission’s implementing provisions.***

The Gas Restructuring Act and the Commission’s implementing regulations provide numerous opportunities for parties to raise issues, file complaints and voice concerns regarding retail choice and its operation on individual NGDC systems. Instead of taking the legislative and regulatory paths that were established for these concerns, the NGSs’ testimony repeatedly looks to handle these issues in this proceeding. The consistent failure to refer to these avenues for relief, as illustrated by the examples below, reflects a broader NGS disregard for opportunities provided within the Gas Restructuring Act and the Commission’s implementing requirements.

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<sup>7</sup> Tr. 70. One party testified at length that the Commission should convene parties under section 2204(g) to examine issues under federal jurisdiction or to consider hypothetical matters that have not been concretely articulated by any interested party, see, Tr. 56-57:

**Dealing with capacity assignment is a lot more difficult because of the involvement of FERC and the involvement of pipelines, and things have to be done in Washington before we can really solve things with regard to capacity assignment.**

**Similarly, with regard to the SOLR model, the SOLR model, as you know, is a very difficult concept. You’re struggling with it on the power side when you’re dealing with POLR, and I don’t think any state in the country has really developed an effective POLR model let alone a SOLR model.**

**So I think those ideas, the SOLR and capacity assignment, are very difficult, but I think . . . through a collaboration we can move the ball forward.**

(emphasis supplied). Nothing in the Gas Restructuring Act supports convening parties under Section 2204(g), and forcing stakeholders to incur the significant costs associated with participation in a collaborative, to discuss matters outside Pennsylvania’s jurisdiction or to engage in vague, academic discussions about economic models that have not been developed anywhere.

A leading example concerns the Binding Interim Standards governing the relationship between NGDCs and their marketing affiliates.<sup>8</sup> During the *en banc* hearing NGSs criticized a number of aspects of these standards, yet their criticisms failed to mention that under these very standards (1) NGDCs are required to “establish and file with the Commission a complaint procedure for dealing with any alleged violations”<sup>9</sup> and (2) “[p]arties alleging violations of these standards may pursue their allegations through the Commission’s established complaint procedures.”<sup>10</sup> It is unclear why NGDC or Commission complaint procedures were not mentioned, let alone pursued, or why these issues were not raised in the Commission’s pending docket establishing permanent standards of conduct.

In a similar vein, members of the second panel used the *en banc* hearing to take issue with the terms of one or another NGDC transportation program,<sup>11</sup> yet no concrete examples were provided (even after specific request)<sup>12</sup> and none of the marketers mentioned filing a complaint.

One NGS panelist testified that suppliers “must be able to establish a direct retail relationship with their customer if retail competition is to succeed.”<sup>13</sup> Nothing in the Gas Restructuring Act prevents an NGS from billing for its natural gas supply services. In fact, the statute specifically allows the customer to choose whether to have NGS services billed by the NGS or included on the NGDC’s bill.<sup>14</sup> The witness went on to testify that the issue may not be whether an NGS can bill for its services, but whether the bill should say whatever an NGS wants:

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<sup>8</sup> See, e.g., Tr. 22-25.

<sup>9</sup> 52 Pa. Code § 69.4992(13).

<sup>10</sup> *Id.*, § 69.192(15).

<sup>11</sup> See, e.g., Tr. 20-21 (Amerada Hess testimony complaining about Equitable’s agency program).

<sup>12</sup> Tr. 51-52 (Colloquy between Commissioner Thomas and Witness Magnani).

<sup>13</sup> Tr. 45.

<sup>14</sup> 66 Pa.C.S. § 2205(c)(1).

The utilities control the bill and marketers are basically told what they can communicate to customers and how they can price their product for their customers. This model is never going to produce a competitive market.<sup>15</sup>

Natural gas bill format and content are specified by Commission regulations<sup>16</sup> that were developed through a rulemaking proceeding.<sup>17</sup> NGSs participated actively in this rulemaking proceeding, and the Final Rulemaking Order demonstrates the Commission's careful consideration of the marketers' positions.<sup>18</sup> The marketers had ample opportunity to present their case when the Commission was deliberating the bill format issues. (Of course, the NGSs are free to further their relationship with their customers through direct mail.)

Another member of the second panel suggested the need for unbundling further services, specifically billing and metering.<sup>19</sup> The Gas Restructuring Act specifically states that the unbundling of such services and others may be addressed only by the Commission through rulemaking.<sup>20</sup>

These instances, as well as the NGSs' consistent refusal to follow statutory avenues for alternatives to assigned capacity,<sup>21</sup> show a pattern of disregard for the procedural avenues and opportunities provided by the Gas Restructuring Act and the Commission's implementing provisions. In effect, the NGSs have approached this investigation as an opportunity to rehash all the issues that were addressed, or could have been addressed, during the collaborative

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<sup>15</sup> Tr. 46.

<sup>16</sup> 52 Pa. Code § 62.74.

<sup>17</sup> PUC Docket No. L-00000149.

<sup>18</sup> *Customer Information Disclosure Requirements for Natural Gas Distribution Companies and Natural Gas Suppliers*, 31 Pa.B. 2005 (2001).

<sup>19</sup> Tr. 48.

<sup>20</sup> 66 Pa.C.S. § 2203(3).

<sup>21</sup> Tr. 12-13; see *generally*, "Comments of the Energy Association of Pennsylvania" 7-8.

discussions that framed the Gas Restructuring Act. However, the actual purpose of this investigation is for the Commission to determine whether effective competition for natural gas supply services exists on the NGDCs' systems. We ask the Commission to maintain its focus on the issue at hand.

**3. *The Small Business Advocate's "cost-plus" approach to penalties incorrectly assumes that when an NGS defaults the NGDC will always be able to find replacement supplies.***

The Small Business Advocate suggested that penalties for NGS misconduct should be based on the cost of replacement of natural gas times a multiplier (more precisely, a pair of multipliers, one to be applied for inadvertent non-compliance and a larger one to be applied for intentional misconduct). The Energy Association's earlier comments noted that a fault-based system of tiered penalties was both unworkable from the standpoint of establishing the defaulter's intent and inappropriate because the damage associated with a given level of default was the same whether the default was intentional or not.<sup>22</sup> In addition, the "cost-plus" approach necessarily assumes that when an NGS defaults, the NGDC will always be able to locate and purchase enough natural gas to "cover" the marketer's failure. The Energy Association does not believe this to be the case, and, more importantly, the Energy Association believes that policy should not be established on the assumption that replacement natural gas will be available under every conceivable marketer failure scenario.

Proper penalties that promote reliable natural gas service must be in place and must not be structured so as to create a situation where pipeline penalty gas or overruns are considered available services that can be used to cover marketer failures. To do so would undermine reliability.

The Commission should also be mindful of the varying physical characteristics of NGDC systems. While some systems may be in market locations where pipeline capacity or on-system

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<sup>22</sup> *Id.*, 14.

supplies or storage are present or readily available incrementally, other systems do not have these characteristics, and may have far fewer, or no, gas supply options in the event of a NGS fails to deliver anticipated supplies to its core market customers.

**4. *The current, statutory system of annual purchased gas cost rates with quarterly adjustments reflects a reasonable balance among the possible approaches.***

In the initial comments in this proceeding and during testimony during the *en banc* hearing, NGSs have at various times argued for increasing the frequency of purchased gas cost (“PGC”) rate changes to a monthly basis (to better reflect current wholesale market conditions) or for freezing PGC rates for a year at a time (to make it easier to compare prices). In response to a question from Commissioner Thomas, the Consumer Advocate noted that every approach has benefits and problems:

I’ve struggled between whether the answer is to have monthly or annual, and even if you do it annually, which is sort of the way we used to do it, the problem is that the gas costs have become so volatile that the risk of massive overrecovery or underrecovery are just greater.

So I don’t really have a solution. I don’t have a solution for that. I do think that even in Ohio, they do use quarterly reconcilable updates, so it’s not that uncommon even in states that have had more choice than we do, but I wish I had an answer for that.<sup>23</sup>

In theory at least, there are a range of possible ways to establish an initial PGC rate and its subsequent adjustments.<sup>24</sup> However, there has been no evidence presented during this investigation that a change to the quarterly adjustments provides a benefit to consumers (or to NGSs for that matter).

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<sup>23</sup> Tr. 77.

<sup>24</sup> As one witness put it, “[T]here’s a bunch of solutions. There’s a continuum. Tr. 35.

CONCLUSION

The Energy Association appreciates this opportunity for reply, and we trust these comments will be considered as the Commission continues its deliberations in this matter.

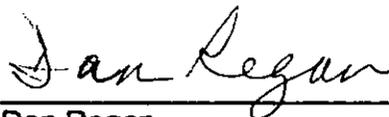
Respectfully submitted,  
ENERGY ASSOCIATION OF  
PENNSYLVANIA

By:   
\_\_\_\_\_  
DAN REGAN  
Vice President & General Counsel  
800 North Third St., Suite 301  
Harrisburg, PA 17102

DATED: October 12, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, via first class mail, a true copy of the foregoing document upon the persons listed below.



Dan Regan

Robert Bennett  
Bureau of Fixed utility Services  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Patricia Krise Burket  
Law Bureau  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

William R. Lloyd, Jr.  
Small Business Advocate  
300 North Second Street, Suite 1102  
Harrisburg, PA 17101

Irwin A. Popowsky  
Consumer Advocate  
555 Walnut St., 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Harry Kingerski  
Shell Energy Services, LLC  
910 Louisiana St., Room 4100  
Houston, TX 77002

Mark S. Kumm  
PEPCO Energy Services, Inc.  
1300 North 17<sup>th</sup> ST., Suite 1600  
Arlington, VA 22209

Vincent A Parisi  
Interstate Gas Supply, Inc.  
5020 Bradenton Ave.  
Dublin, OH 43017

Richard J. Kruse  
Duke Energy Gas Transmission  
P.O. Box 1842  
Houston, TX 77251-1642

T.W. Merrill  
NRG Energy Center  
111 South Commons Avenue  
Pittsburgh, PA 15212

Gary A. Jeffries  
Dominion Retail, Inc.  
1201 Pitt Street  
Pittsburgh, PA 15221

Louis D. D'Amico  
Independent Oil & Gas Assn. of Penna.  
North Ridge Office Plaza II  
115 VIP Dr., Suite 110  
Wexford, PA 15090-7906

Todd S. Stewart  
P. O. Box 1778  
Harrisburg, PA 17105-1778

Curtis D. Clifford  
UtiliTech, Inc.  
975 Berkshire Blvd., Suite 100  
Wyomissing, PA 19610

Ralph E. Dennis  
Constellation NewEnergy – Gas Division  
9960 Corporate Campus Dr., Suite 200  
Louisville, KY 40223

Alyssa D. Weinberger  
Amerada Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095

James H. Cawley  
Rhoads & Sinon LLP  
One South Market Square  
Harrisburg, PA 17101

Dated: October 12, 2004

SECRETARY'S BUREAU

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**T.W. PHILLIPS**  
**GAS AND OIL CO.**

205 North Main Street  
Butler, Pennsylvania 16001  
(724) 287-2751

October 12, 2004

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VIA UPS NEXT DAY AIR

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Second Floor North  
Harrisburg, Pennsylvania 17105

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Investigation into Competition in the Natural Gas Supply Market,  
PUC Docket No. I-00040103

Dear Mr. McNulty:

Enclosed with this letter for filing are the original and ten (10) copies of the Reply Comments of T. W. Phillips Gas and Oil Co. in the above-referenced proceeding. Also enclosed is a diskette containing an electronic version of the Reply Comments. Please confirm your receipt of this filing by date stamping and returning to me the enclosed extra copy of this cover letter, using the stamped, return envelope that is also enclosed for your convenience.

Very truly yours,

**T. W. PHILLIPS GAS AND OIL CO.**

  
Jay W. Dawson  
Vice President – Legal  
and Secretary

JWD:bjr

Enclosures

cc: Robert M. Hovanec

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

OCT 12 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Investigation into Competition in  
the Natural Gas Supply Market

) Docket No. I-00040103  
)  
)

**DOCKETED**  
OCT 25 2004

**REPLY COMMENTS OF T. W. PHILLIPS GAS AND OIL CO.**

T. W. Phillips Gas and Oil Co. ("T. W. Phillips") hereby submits the following Reply Comments in response to the numerous written comments and direct testimony submitted to the Pennsylvania Public Utility Commission (the "Commission") by interested parties at the above Docket and presented to the Commission in person during its public hearing on September 30, 2004.

**DOCUMENT  
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I. INTRODUCTION

T. W. Phillips is a small gas distribution company based in Butler, Pennsylvania which serves approximately 61,000 customers in nine southwestern Pennsylvania counties. T. W. Phillips serves a region where gas to gas competition, flexible or negotiated tariff rates and unbundled gas service options were a way of life for many years before the enactment of the Natural Gas Choice and Competition Act (the "Act") in July 1999.

Western Pennsylvania, unlike any other region in the state, has a long history of overlapping gas utility service territories. Several gas utilities, including T. W. Phillips, have gas pipeline and related facilities in place and available to serve the public in western Pennsylvania. During the 'gas wars' of the 1980's between and among western Pennsylvania gas utilities, when T. W. Phillips and its low-cost gas service was a primary target, the Commission expressly authorized direct competition between gas utilities in areas where their service territories overlap. Such overlapping service territories exist throughout western Pennsylvania. In fact, there are some communities where gas consumers can choose from as many as three different gas utilities.

T. W. Phillips' flexible tariff rate provisions, as approved by the Commission, have been used since the mid-1980s to respond to the highly competitive environment in western Pennsylvania. Among large industrial and commercial gas users, alternative gas supply options

have been available for many years. With its Commission-approved flexible tariff rates, transportation service options, low gas costs and relatively low operating costs, T. W. Phillips is equipped to take on aggressive gas-to-gas competition. Although transportation throughput on the T. W. Phillips' system has grown dramatically in recent years in service to its large industrial and commercial customers, T. W. Phillips still serves a considerable industrial and commercial load under its competitively-priced bundled or retail service. In the aftermath of the gas wars, hundreds of residential and small commercial gas consumers in western Pennsylvania switched to T. W. Phillips from other utility suppliers because of its low-cost bundled sales or merchant service, and they continue to do so. T. W. Phillips' merchant service is still the preferred choice of its residential and small commercial customers.

## II. COMMENTS

### A. **The absence of natural gas suppliers serving residential and small commercial customers on T. W. Phillips' system does not constitute a failure of gas competition**

1. Small Customer Base. As stated above, T. W. Phillips serves only 61,000 customers, approximately 56,500 of whom are residential customers located in nine southwestern Pennsylvania counties. Accordingly, the T. W. Phillips system does not present natural gas suppliers with a large number of potential customers concentrated together in such a way as to facilitate economies of scale. Such economies are essential to serve small customers in an environment where margins are exceedingly small. The fact of the matter is that the relatively small number of potential customers on T. W. Phillips' system has done more to discourage the active presence of natural gas suppliers willing to serve them than have any shortcomings of the competitive gas supply market in Pennsylvania.

2. The Choice of Merchant Service. T. W. Phillips' reliable and competitively priced merchant service has been the affirmative choice of residential, commercial and industrial customers alike on the T. W. Phillips system. In its southwestern Pennsylvania market area, T. W. Phillips has been and continues to be the most competitive provider of merchant or bundled sales service. For many years, the cost of T. W. Phillips' residential service was not only the lowest in Pennsylvania, but among the lowest in the entire nation. While T. W. Phillips has transportation service available to all of its customers, in compliance with the Act, residential and small commercial customers on the T. W. Phillips system have

uniformly chosen to retain their reliable and competitively-priced merchant service. T. W. Phillips should not be prevented from continuing to provide reliable, low-cost, bundled sales service to its customers and thereby remaining an active participant in the already-competitive western Pennsylvania gas market, where it has consistently proven itself to be the low-cost gas service provider.

3. Gas Service Reliability. Providing gas consumers with competitively priced gas service is not the only factor to be considered in evaluating the role of merchant service in Pennsylvania. To the contrary, being able to maintain the level of gas service reliability that Pennsylvania gas consumers have come to expect from their gas distribution companies is also of critical importance, as acknowledged by several provisions in the Act.

T. W. Phillips' gas service reliability is well known to its customers. They have not experienced service interruptions as T. W. Phillips' customers. Even during the coldest winter weather in the history of the Commonwealth in January, 1994, T. W. Phillips satisfied total system requirements without interruption. T. W. Phillips' presence as an active competitor in western Pennsylvania with bundled sales service has raised the standard of performance demanded of all other competitors in the marketplace, from both a price and reliability standpoint. It is essential that T. W. Phillips, through its merchant service and reputation for reliability, be permitted to continue to provide this positive influence on the gas market in its service territory.

Pennsylvania gas consumers should not be denied the opportunity to 'choose' the bundled retail sales or merchant service they have come to rely on from their gas distribution company, particularly when it is not necessary to deny that reasonable choice under the Act to accomplish the purpose of providing competitive gas supply options for Pennsylvania's gas consumers.

4. Potential Savings are Small. In conjunction with the passage of the Act in 1999, the Pennsylvania legislature also eliminated the 5 percent gross receipts tax on merchant service provided by natural gas distribution companies. Prior to that action, natural gas suppliers, who could provide gas supply service to Pennsylvania gas customers without being subject to the gross receipt tax, had a built-in 5 percent price advantage over the merchant service option. With the elimination of that tax, natural gas suppliers lost the ability to offer their customers some or all of that 5 percent price advantage in savings to induce them to switch

from merchant service. Today, the margins remain small and the potential savings to residential and small commercial customers provide little or no incentive for small gas consumers to go to the trouble of switching, even if they were inclined to do so.

Merchant service on the T. W. Phillips' system is an option that should be protected and preserved for its small residential and commercial gas customers, not sacrificed to the goal of a more competitive gas supply market in Pennsylvania. If T. W. Phillips were to be forced out of merchant service by operation of the Act, then its residential and small commercial gas customers, who were supposed to be the primary beneficiaries of the 'increased competition' promoted by the Act, will end up paying more for their gas service. After all, how can 'increased competition' provide a benefit to consumers if it removes from the competitive arena the most reliable, competitively-priced service option? Such action would never benefit T. W. Phillips' residential and small commercial gas consumers as much as it would the gas suppliers, marketers and brokers, who seek to eliminate merchant service, like that of T. W. Phillips, as a competitor and enter the market themselves as gas supply service providers.

**B. Gas competition is working on the T. W. Phillips' system**

In its 2000 restructuring case, as filed with the Commission in compliance with the Act, T. W. Phillips introduced a range of unbundled transportation service options for its customers. T. W. Phillips has seen its transportation throughput grow from 3,306,313 Mcf or 13 percent of total throughput in 2000, to 11,459,680 Mcf or 50 percent of total throughput in 2003. The fact that the transportation service option has been used exclusively by large industrial and commercial customers on the T. W. Phillips system does not mean that gas competition has failed or is somehow deficient for customers served by T. W. Phillips. The dramatic increase in transportation volumes on the T. W. Phillips system demonstrates that the opposite is true.

For the several reasons stated in Section II.A. above, T. W. Phillips' reliable, competitively-priced merchant service remains the best service option for residential and small commercial customers served by T. W. Phillips. The elimination of that option would create the worst possible scenario for T. W. Phillips' customers; namely, higher cost and less reliable gas service. As discussed at length in comments submitted by the Office of the Consumer Advocate, the Georgia approach, pursuant to which all gas consumers were forced to choose

an alternative supplier or have one assigned to them, has not been a model adopted by any other state. Nor should it be adopted in Pennsylvania.

**C. Annual Purchased Gas Cost proceedings assure  
competitive gas costs for purchasers of merchant service**

Natural gas distribution companies remain subject to annual purchased gas cost proceedings, which require them to confirm their use of least cost gas procurement strategies in acquiring gas supplies from their merchant service customers. Gas costs are then recovered from customers on a dollar-for-dollar basis. No such regulatory protections are available to gas supply customers of non-regulated natural gas suppliers. Accordingly, residential and small commercial customers of T. W. Phillips who have retained their merchant service have not only benefited from T. W. Phillips' competitively-priced, reliable gas service, but are also guaranteed that *least cost procurement strategies are always followed in the acquisition of their gas supplies*. Not only would this protection be lost if T. W. Phillips' merchant service were to be denied them, but such customers would be obliged to purchase gas from suppliers who, unlike T. W. Phillips, fully expect to earn a profit on the gas they sell. Under such circumstances, it is difficult to see how T. W. Phillips' residential and small commercial customers could expect to realize savings as a result of such 'increased competition'.

**D. Natural gas suppliers have failed to take advantage of opportunities  
to participate in the Pennsylvania gas supply market.**

1. Capacity Assignment. Natural gas suppliers have consistently and repeatedly failed to take advantage of opportunities to adjust the competitive gas environment in Pennsylvania to their favor. First, many suppliers and marketers have vigorously objected to the assignment of firm interstate transportation and storage service capacity from natural gas distribution companies to natural gas suppliers and marketers, as a hindrance to effective gas supply competition. The Act provides, at Section 2204(d)(5)(ii), that suppliers have been free to petition the Commission, since July 1, 2002, to prevent capacity assignment and authorize supplier use of alternative capacity when it can be shown to be comparable, particularly in terms of reliability. No natural gas suppliers or marketers have taken advantage of this opportunity.

Furthermore, under Section 2204(e) of the Act, natural gas distribution companies have been required to file with and obtain Commission approval in advance of acquiring any new or renewed firm transportation or storage service capacity that is used to

maintain service to their customers. As a result of this requirement, natural gas suppliers and marketers interested in serving customers in Pennsylvania have been given ample opportunity to intervene in and object to any such renewals which could require them to accept the assignment of capacity that may not allow them to compete effectively and to propose alternative capacity more attractive to them. T. W. Phillips itself has made several such filings with the Commission since 2000 to renew or extend transportation or storage service contracts used to meet the requirements of its merchant service customers. No natural gas supplier has ever intervened in these proceedings. Furthermore, T. W. Phillips is not aware of any natural gas supplier taking advantage of this procedure to challenge the actions of any other natural gas distribution company in Pennsylvania. Accordingly, natural gas suppliers should not now be heard to complain about the assignment of transportation or storage capacity that they might have changed or replaced under procedures made available to them under the Act.

2. Standards of Conduct. In addition, complaints by natural gas suppliers about the failures or ineffectiveness of existing standards of conduct to protect against competitive abuses, particularly in connection with natural gas distribution company affiliates, can not be given serious attention now when they neglected to take advantage of the opportunities made available by the Commission in the spring of 2003 to discuss and resolve questions about the Binding Interim Standards of Conduct adopted by the Commission in 2000. In April 2003, the standards of conduct working group, which had assisted the Commission in drafting the Interim Binding Standards of Conduct in 2000, and other interested parties were invited to attend a meeting in Harrisburg to consider whether or not the Interim Standards should be confirmed by the Commission and adopted as permanent.

The unanimous consensus of those who attended the meeting on April 28, 2003, was that the Interim Standards were functioning well after three years in place and should not be changed. No natural gas suppliers were present at the meeting, but a follow-up communication was sent to several suppliers and marketers, informing them of the consensus opinion that the Interim Standards be adopted as presented and inviting them to present their views. No changes were proposed by any natural gas supplier, marketer, or broker. At its Public Meeting on September 18, 2003, the Commission adopted a Proposed Rulemaking Order, entered September 23, 2003, recommending that permanent standards of conduct be adopted directly from the Interim Binding Standards of Conduct.

Natural gas suppliers have had opportunities to affect the competitive nature of the natural gas supply market in Pennsylvania. They have not availed themselves of those opportunities and should not now be heard to complain about deficiencies in the competitive gas supply market that they could have influenced by conscientious participation in the processes established under the Act.

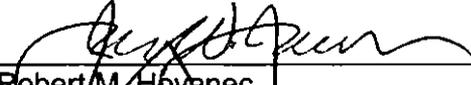
III. CONCLUSION

T. W. Phillips appreciates this opportunity to reply to the comments and direct testimony submitted by parties interested in the Commission's current investigation into competition in the Pennsylvania gas supply market. T. W. Phillips contends that gas competition is working effectively in Pennsylvania and that the lack of natural gas suppliers actively competing for residential and small commercial customers on T. W. Phillips' and other distribution systems in the Commonwealth is not indicative of a failure of gas competition, but is more likely evidence of a lack of sufficient numbers of residential customers and the fact that small gas consumers prefer the reliable merchant service of their natural gas distribution companies to the alternatives, particularly when they can expect little or no savings if they accept an alternative service option.

On T. W. Phillips' system, residential and small commercial service recognize and appreciate the benefits of the reliable, competitively-priced merchant service they have consistently enjoyed as customers of T. W. Phillips.

Respectfully submitted,

Date: October 12, 2004

  
\_\_\_\_\_  
Robert M. Hovanec  
Jay W. Dawson

**T. W. PHILLIPS GAS AND OIL CO.**  
205 North Main Street  
Butler, Pennsylvania 16001  
(724) 287-2751



McNees Wallace & Nurick LLC  
attorneys at law

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SECRETARY'S OFFICE

CHARIS MINCAVAGE  
DIRECT DIAL: (717) 237-5437  
E-MAIL ADDRESS: CMINCAVAGE@MWN.COM

October 12, 2004

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
The Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**VIA HAND DELIVERY**

DOCKETED  
DEC 03 2004

**Re: Investigation Into Competition in the Natural Gas Supply Market;  
Docket No. I-00040103**

Dear Secretary McNulty:

On June 19, 2004, the Pennsylvania Public Utility Commission ("PUC" or "Commission") instituted an investigation into the state of competition in the natural gas supply market in Pennsylvania pursuant to the terms of the Natural Gas Choice and Competition Act ("Competition Act"). On August 27, 2004, interested parties submitted Comments, with *en banc* hearings held September 30, 2004. Pursuant to the Commission's September 10, 2004, Secretarial Letter, these Reply Comments are submitted on behalf of the following groups: Columbia Industrial Intervenors ("CII"); Industrial Energy Customers of Pennsylvania ("IECPA"); PGE Industrial Intervenors ("PGEII"); PFG Large Users Group ("PFGLUG"); Philadelphia Area Industrial Energy Users Group ("PAIEUG"); Philadelphia Industrial and Commercial Gas Users Group ("PICGUG"); and UGI Industrial Intervenors ("UGIII") (hereinafter, "IECPA, *et al.*").

Approximately, two decades ago, natural gas supply became competitively available for large commercial and industrial customers. Accordingly, when the Competition Act was implemented, the terms of the Act applied only to residential and small commercial customers, as these were the customers that were not yet transporting on Local Distribution Company ("LDC") systems in Pennsylvania. The PUC instituted this investigation pursuant to Section 2204(g) of the Competition Act, which applies to residential and small commercial customers. For this reason, IECPA, *et al.*, did not submit any comments or testimony in this proceeding.

In the course of monitoring this proceeding, however, IECPA, *et al.*, has determined that some parties have suggested that competition issues impacting large transportation customers should be addressed by the PUC as part of its investigation. For example, Amerada Hess's ("Hess") comments propose that the Commission consider implementing changes to the volumetric tolerances, cash-out penalties, pooling regulations, and imbalance trading applicable to large transportation customers in Pennsylvania.

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James J. McNulty, Secretary  
October 12, 2004  
Page 2

IECPA, *et al.*, does not disagree with the PUC examining the state of competition for large transportation customers; however, IECPA, *et al.*, does not believe that this proceeding is the appropriate venue for such an examination. As indicated previously, the PUC implemented this investigation pursuant to the terms of the Competition Act. In turn, the Competition Act is primarily applicable to only residential and small commercial customers. Accordingly, to examine natural gas competition issues for large commercial and industrial customers in this proceeding would run afoul of the Competition Act, as well as inappropriately suggest that large transportation customers are subject directly to the terms of the Act. For this reason, IECPA, *et al.*, submits that if the PUC chooses to examine the state of natural gas competition for large transportation customers in Pennsylvania, the PUC should institute a separate investigation via a different proceeding.

We have enclosed ten (10) copies of these Reply Comments per the Commission's request. We have also enclosed a diskette with a copy of these Reply Comments in electronic form. Please date stamp and return the extra copy of these Reply Comments to our messenger for our records. If you have any comments or questions, please contact the undersigned.

Very truly yours,

MCNEES WALLACE & NURICK LLC

By   
Charis Mincavage

Counsel to CII, IECPA, PFGLUG, PAIEUG,  
PGEII, PICGUG, and UGIII

CM:lhe  
Enclosures

Morgan, Lewis & Bockius LLP  
One Commerce Square  
417 Walnut Street  
Harrisburg, PA 17101-1904  
Tel: 717.237.4000  
Fax: 717.237.4001  
www.morganlewis.com

**Morgan Lewis**  
C O U N S E L O R S   A T   L A W

**Michael W. Hassell**  
717.237.4024  
mhassell@morganlewis.com

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October 13, 2004

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James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
PO Box 3265  
Harrisburg, PA 17105-3265

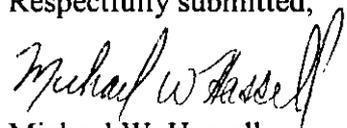
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Re: Securities Certificate of The York Water Company in Respect of the Loan Agreement to Support Pennsylvania Economic Development Financing Authority Exempt Facilities Revenue Bonds, Series B of 2004, S-00041015

Dear Secretary McNulty:

By transmittal letter dated October 5, 2004, The York Water Company ("York Water") submitted the above-referenced revised Securities Certificate. It has come to York Water's attention that an incorrect date was provided in the Securities Certificate with respect to the effective date of the debt issue. The Securities Certificate should have stated that the effective date of the debt issue is expected to be prior to the end of 2004. York Water requests that the Commission act to register this securities certificate no later than its Public Meeting scheduled for November 4, 2004.

Respectfully submitted,

  
Michael W. Hassell

MWH/kms

c: Douglas Beebe  
Richard Watson  
Jeffrey S. Osman

41

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.  
Small Business Advocate

October 15, 2004

(717) 783-2525  
(717) 783-2831 (FAX)

**Hand Delivered**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 171050-3265

ORIGINAL

SECRETARY'S OFFICE

2004 OCT 15 PM 3:45

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**Re: Investigation into Competition in the  
Natural Gas Supply Market  
Docket No. I-00040103**

DOCKETED  
DEC 06 2004

Dear Secretary McNulty:

On August 27, 2004, the Office of Small Business Advocate ("OSBA") filed testimony in the above-captioned matter.

On September 30, 2004, I participated on behalf of the OSBA in the en banc hearings in the above-captioned matter.

The OSBA initially chose to rest on its filed and oral testimony and not to submit reply comments. However, the OSBA is submitting this comment to correct a possible misunderstanding caused by the Reply Comments filed by the Energy Association of Pennsylvania ("EAP") on October 12, 2004.

In defending its position that "effective competition" exists for purposes of 66 Pa.C.S. §2204(g), the EAP twice quoted from my oral testimony. Unfortunately, the EAP's selective citation on page 3 of its Reply Comments could be read as implying exactly the opposite of what I actually said.

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SECRETARY'S BUREAU

Specifically, the EAP's Reply Comments, at 3, state as follows:

NGS activity in the core and non-core markets has been as expected given the economics of the industry. The reasons for the different levels of activity are economic, not legislative, and to cite the Small Business Advocate there are no 'things within the parameters the Legislature set which are creating unnecessary impediments to competition.' Accordingly, there is ample reason for the Commission to conclude that — for purposes of Section 2204(g) — effective competition does exist. (footnote omitted)

A reading of the foregoing quote could lead one to conclude that the OSBA agrees with the EAP that there are no unnecessary impediments to competition. However, such a conclusion would be erroneous.

The OSBA does agree with the EAP that there is "effective competition" for purposes of Section 2204(g). However, my oral testimony was that there are some unnecessary impediments to competition. Specifically, the testimony from which the EAP cited only part of a sentence is as follows:

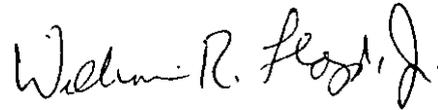
So I think the real focus ought to be on, are there things within the parameters the Legislature set which are creating unnecessary impediments to competition. One of those I believe is the lack of uniform penalties and the lack of a penalty base which reflects actual market prices.

September 30, 2004, Transcript, at page 70, lines 15-19.

Contrary to the conclusion which could be reached from a reading of the EAP's Reply Comments, I did not testify that there are no unnecessary impediments to competition. To the contrary, I suggested that the Commission should focus on whether there are any such impediments. Furthermore, in the very next sentence, I identified one example of what the OSBA considers to be an unnecessary impediment.

In order to correct what presumably was an unintentional implication by the EAP, I respectfully request that this letter be accepted as a late-filed Reply Comment and be included as part of the record.

Sincerely,



William R. Lloyd, Jr.  
Small Business Advocate

Enclosure

cc: Hon. Wendell F. Holland, Chairman  
Hon. Robert K. Bloom, Vice Chairman  
Hon. Glenn Thomas, Commissioner  
Hon. Kim Pizzingrilli, Commissioner  
Karen Oill Moury, Acting Executive Director  
Veronica A. Smith, Chief Administrative Law Judge  
Susan D. Colwell, Administrative Law Judge  
Robert A. Rosenthal, Director, Fixed Utility Services  
Robert Bennett, Manager - Energy, Fixed Utility Services  
Mitchell A. Miller, Director, Bureau of Consumer Services  
Bohdan R. Pankiw, Chief Counsel  
Robert F. Young, Deputy Chief Counsel  
Patricia Krise Burket, Assistant Counsel  
Kevin F. Cadden, Director, Conservation, Economics and Energy Planning  
June Perry, Director, Legislative Affairs  
Thomas Charles, Director, Office of Communications  
Parties of Record

ORIGINAL BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S BUREAU

2001 OCT 15 PM 3:45

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Investigation into Competition in the : Docket No. I-00040103  
Natural Gas Supply Market :

Certificate of Service

I certify that I am serving a copy of the foregoing document on behalf of the Office of Small Business Advocate by first class mail (unless otherwise indicated) upon the persons addressed below:

Dan Reagan, V.P. & General Counsel  
Energy Association of Pennsylvania  
800 North Third Street, Suite 301  
Harrisburg, PA 17102  
**(hand delivered)**

Irwin A. Popowsky  
Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street 5<sup>th</sup> FL Forum Place  
Harrisburg, PA 17101-1923

Louis D. D'Amico  
Independent Oil & Gas Assn. Of Pa.  
North Ridge Office Plaza II  
115 VIP Dr., Suite 110  
Wexford, PA 15090-7906

Curtis D. Clifford  
UtiliTech, Inc.  
975 Berkshire Blvd., Suite 100  
Wyomissing, PA 19610

Alyssa D. Weinberger  
Amerada Hess Corporation  
One Hess Plaza  
Woodbridge, NJ 07095

Richard J. Kruse  
Duke Energy Gas Transmission  
P.O. Box 1642  
Houston, TX 77251-1642

Gary A. Jeffries  
Dominion Retail, Inc.  
1201 Pitt Street  
Pittsburgh, PA 15221

Harry Kingerski  
Shell Energy Services, LLC  
910 Louisiana St., Room 4100  
Houston, TX 77002

Vincent A. Parisi  
Interstate Gas Supply, Inc.  
5020 Bradenton Avenue  
Dublin, OH 43017

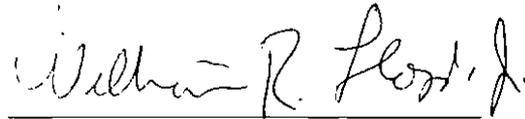
T.W. Merrill  
NRG Energy Center  
111 South Commons Avenue  
Pittsburgh, PA 15212

Mark S. Kumm  
PEPCO Energy Services, Inc.  
1300 North 17<sup>th</sup> St., Suite 1600  
Arlington, VA 22209

Todd S. Stewart  
Hawke McKeon Sniscak & Kennard  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105

Ralph E. Dennis  
Constellation NewEnergy - Gas Division  
9960 Corporate Campus Dr., Suite 200  
Louisville, KY 40223

James H. Cawley  
Rhoades & Sinon LLP  
One South Market Square  
P.O. Box 1146  
Harrisburg, PA 17108-1146



William R. Lloyd, Jr.  
Small Business Advocate

Dated: October 15, 2004

**AMERADA HESS CORPORATION**

ALYSSA D. WEINBERGER  
Director of Regulatory Affairs  
Energy Marketing

1 HESS PLAZA  
WOODBIDGE, NJ 07095-0961  
(732) 750-6024 Phone  
(732) 750-6670 Fax

October 28, 2004

VIA OVERNIGHT MAIL

James J. McNulty, Secretary  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

DOCUMENT  
FOLDER

RE: Investigation into Competition in the Natural Gas Supply Market  
Docket Number I-00040103

Dear Mr. McNulty:

Enclosed, for filing with the Commission, are the Reply Comments of Amerada Hess Corporation in response to the Comments of Equitable Gas Company filed October 12, 2004 in the above proceeding. As required, we include one original plus 10 hard copies and one electronic copy on diskette for use by the Commission.

A copy of these Reply Comments have also been served on Equitable legal counsel.

To assist in our record keeping, please file stamp and return the extra copy in the self-addressed, stamped envelope included for this purpose.

If you have any questions, please contact me at (732) 750-6856.

Sincerely,



Alyssa D. Weinberger  
Director of Regulatory Affairs

76

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural Gas Supply Market  
Docket Number I-00040103

**DOCKETED**  
NOV 22 2004

**Reply Comments of Amerada Hess Corporation**

Alyssa D. Weinberger  
Director of Regulatory Affairs  
Amerada Hess Corporation  
One Hess Plaza  
Woodbridge, N.J 07095  
Phone: (732) 750-6024  
Fax: (732) 750-6670  
[aweinberger@hess.com](mailto:aweinberger@hess.com)

Dated: October 28, 2004

**DOCUMENT  
FOLDER**

Amerada Hess Corporation (“Hess”) submits these comments as a rebuttal to the Reply Comments filed by Equitable Gas Company, (“Equitable”) on October 12, 2004. Hess is incredibly disturbed by the multiple and blatant misrepresentations and accusations contained within Equitable’s Reply Comments, and therefore we feel compelled to respond. Equitable’s unfounded suggestion that Hess has “intentionally misinformed the Commission,” is completely untrue, and as addressed below, is either an example of their misunderstanding of the competitive marketplace and the purpose of this investigation or else it is an attempt to discredit Hess’ valid concerns expressed both through our filed comments and our testimony on September 30, 2004.

First, in subparagraph 3(a), page 2 of its comments Equitable states that Hess expects changes to be made to certain aspects of its tariffs and the regulations applicable to its operations via “informal discussions” without the benefit of meaningful investigation and fact gathering. Hess in no way expects informal resolution to its issues with any LDC tariff. Instead, Hess fully expects that LDCs will work with marketers to ensure a balanced set of rules is in place. Certainly, this process for revision would involve the Pennsylvania Public Utility Commission (“Commission” or “PUC”) staff and formal tariff filings. Moreover, Equitable’s statements misconstrue the purpose of this investigation; the intent of this investigation is to gather as much information as possible for the PUC so that it may fully evaluate whether the policies, procedures, rules and regulations that were implemented at the beginning of deregulation of the gas market have in fact fostered competition as the Commission had originally intended. These

filings are not informal discussions, but rather the mechanisms by which the PUC is to gather this information.

Second, further in that same paragraph, Equitable states that its agency program is the result of two formal, on-the-record, fully litigated proceedings, further demonstrating that Equitable does not understand the intent of this investigation. The purpose of this investigation is to determine whether rules and programs such as the Agency Program have supported the development of competition, or if changes do in fact need to be made.

Moreover, Equitable's next statement that Hess' goal is to "improve [its] own bottom line, reduce competition and possibly move Equitable customers to another NGDC's system" is simply false. Hess's goal is the same as that of this investigation: to foster competition, for example by ensuring that a large competitor to marketers like Equitable, does not have an unfair advantage due to the design and implementation of its programs. The presence of Equitable's Agency Program significantly stifles competition and, as currently structured and effectuated, has the potential to increase costs to firm captive customers while increasing earnings to shareholders. This adverse impact upon competition is one that the Commission should investigate further so that it may be removed and replaced with a program and transparent rules that either provide a catalyst to competition, or at the very least do not deter it in the way it does now. In addition, as discussed below, Hess has absolutely no incentive to move a customer to another system.

In Subparagraph (b) on page 3, Equitable's response to Hess' concern of whether the agency program is a way for it to stream lower cost gas supply to elastic customers at the expense of pushing higher cost to inelastic customers misses the point. Whether Equitable purchases the gas for agency customers or arranges for its purchase is totally

irrelevant. The point is that Equitable, under the program as currently structured, is allowed to examine the myriad supplies available to it and choose the cheapest supplies as to be “arranged” for purchase by a customer of the agency program. The higher cost supplies can then be purchased by Equitable for its inelastic customers. The situation could be significantly worsened since Equitable could then use its upstream assets to deliver those supplies to the city gate at rates that are well below market. The firm customer may be better off if Equitable released that capacity to marketers and credited the revenue to its Purchased Gas Cost account rather than utilizing the capacity to serve Agency customers.

What's more, the fact that annual inquiries into Equitable's Purchased Gas Costs have not affirmatively demonstrated that higher gas costs are being pushed to its inelastic customers signifies nothing. The annual review may simply not be structured in such a way as to analyze the impacts of this practice or even to determine whether this practice is being implemented. When the program's rules, or lack thereof, do not prohibit such behavior, the Commission staff will not evaluate the program on that basis. The entire agency program is governed by one paragraph. That paragraph does not address any of the issues that Hess has raised, nor any other behavior or standards that should be followed when running a program that has such a direct effect on competition. Hess believes that the Agency Program must be reviewed to implement safeguards against unfair competitive practices through which it can increase its transportation revenue and shareholder earnings at the expense of firm inelastic customers.

Third, in Equitable's comments in Subparagraph (c) on page 4, Equitable maintains “there is an incentive to a natural gas supplier to encourage the construction of

competitive distribution facilities” reasoning that: 1) the ultimate market price a customer is willing to pay remains the same and 2) that a lower distribution charge to the customer means a higher margin to the marketer. Equitable then states that Hess’ professed ignorance of this supposed “market reality” is disingenuous or an intentional attempt to misinform the Commission. This incredible statement of Equitable is a sad commentary on, and demonstration of, the utility’s complete misunderstanding of the competitive marketplace. A customer’s willingness to pay a price for gas from a marketer is not determined by what transportation charge that customer would have paid if he were being served by a different distribution company at a different distribution rate. Rather, it is determined by the price that another marketer is willing to charge that customer. That is the beauty of fair competition; marketers compete and the customer gets the lowest possible price. Equitable seems to think that the customer has a total price in mind and if someone lowers his distribution rate, he is then willing to pay more for his commodity. Nothing could be further from the truth. Customers want to pay the lowest price possible. If their distribution rate is lowered, they will still go out to bid and accept the best commodity price quoted. Hess would structure its bid at the lowest margin possible since it knows that the other marketers will be doing the same. Hess has no incentive to encourage customers to leave Equitable’s system. Hess quotes prices at the citygate and its price quote will be the same regardless of what distribution rate the customer is paying.

Finally, in subparagraph (d) on page 4, Equitable states that a third-party marketer has recently taken a significant portion of Hess’ load on the Equitable system and that the marketer did so without an unfair advantage. Hess is puzzled as to the relevance of this statement. Marketers compete every day. They gain customers and lose customers. That

type of competition is the very crux of our business, is one that Hess relishes, and seeks to employ more of in the Commonwealth's gas market via this investigation. We occasionally lose a customer but we gain more than we lose as we continue to grow. The issue that Hess is concerned with is not whether we lost a customer to another marketer or gained one from them, but simply that such competition needs to be fostered and increased in the Commonwealth. Hess believes that the Equitable Agency Program can be abused and does the opposite by having an adverse affect on competition. The review of Equitable's program is an appropriate outcome of this proceeding.

Again, Hess is disappointed by Equitable's unfounded attacks on Hess. Hess has repeatedly attempted to work with Equitable on proposed changes to its tariff but has been met with some resistance and an unwillingness to consider any changes at all to the Agency Program. We are further astounded that Equitable would attempt to place Hess in such an unfavorable light with the Commission by misrepresenting Hess' views and overtly stating that we have misled the Commission. We are hopeful that these Reply Comments have clarified our position and concerns so that the Commission understands their veracity as well as our interest in working constructively with the Commission and all market participants toward our mutual goal of a robust competitive market for the Commonwealth.

As Hess has stated before, Hess is encouraged by the Commission's progress toward this goal. However, there is still much work to be done in order to fully provide the benefits of competition to the natural gas customers of Pennsylvania. While these Reply Comments have focused on one particular issue and its impact upon effective competition, Hess would like to reiterate that the immediate goal of the Commission

should be further consideration and review of this and all the other issues raised by it, as well as the other participants, while keeping our eyes on the ultimate goal of fostering a competitive natural gas market in the Commonwealth.

**Certificate of Service**

I hereby certify that I have this day served, via first class mail, a true copy of the foregoing document upon the persons listed below

**Service by First Class Mail**

Dan Regan  
Vice President & General Counsel  
Energy Association of Pennsylvania  
800 North Third Street, Suite 301  
Harrisburg, PA 17102

Charles E. Thomas, Jr., Esquire  
Thomas T. Niesen, Esquire  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street, Suite 500  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Robert Bennett  
Bureau of Fixed Utility Services  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Daniel L. Frutchey, Esquire  
Senior Vice President & General Counsel  
Equitable Gas Company  
200 Allegheny Center Mall  
Pittsburgh, PA 15212

William R. Lloyd, Jr., Esq.  
Small Business Advocate  
300 North Second Street, Suite 1102  
Harrisburg, PA 17101

Patricia Krise Burkett, Esquire  
Law Bureau  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Harry Kingerski  
Shell Energy Services, LLC  
910 Louisiana St., Room 4100  
Houston, TX 77002

Irwin A. Popowsky, Esquire  
Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Vincent A. Parisi  
Interstate Gas Supply, Inc.  
5020 Bradenton Avenue  
Dublin, OH 43017

Mark S. Kumm  
PEPCO Energy Services, Inc.  
1300 North 17<sup>th</sup> Street, Suite 1600  
Arlington, VA 22209

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Richard J. Kruse  
Duke Energy Gas Transmission  
P.O. Box 1642  
Houston, TX 77251-1642

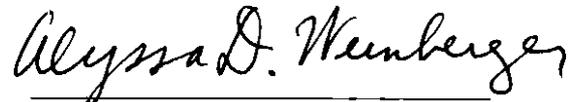
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975 Berkshire Blvd., Suite 100  
Wyomissing, PA 19610

Ralph E. Dennis  
Constellation NewEnergy – Gas Division  
9960 Corporate Campus Dr., Suite 200  
Louisville, KY 40223

Gary A. Jeffries  
Dominion Retail, Inc.  
1201 Pitt Street  
Pittsburgh, PA 15221

Todd S. Stewart, Esquire  
P.O. Box 1778  
Harrisburg, PA 17105-1778

Louis D. D'Amico  
Independent Oil & Gas Assn. of Penna.  
North Ridge Office Plaza II  
225 VIP Dr., Suite 110  
Wexford, PA 15090-7906



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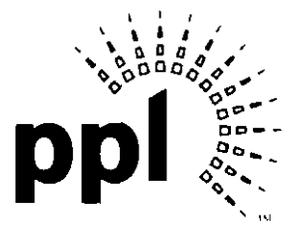
Alyssa D. Weinberger  
Director of Regulatory Affairs

Dated: October 28, 2004

ORIGINAL

Paul E. Russell  
Associate General Counsel

PPL  
Two North Ninth Street  
Allentown, PA 18101-1179  
Tel. 610.774.4254 Fax 610.774.6726  
perussell@pplweb.com



**FEDERAL EXPRESS**

March 21, 2005

James J. McNulty, Esquire  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120

RECEIVED

MAR 21 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Dear Mr. McNulty:

Enclosed for filing on behalf of PPL Gas Utilities Corporation ("PPL Gas"), formerly PFG Gas, Inc. and North Penn Gas Company, are an original and ten (10) copies of PPL Gas' responses to the questions of the Commission set forth in Annex A of its Order at Docket No. I-00040103.

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on March 21, 2005, which is the date it was deposited with an overnight express delivery service as shown on the delivery receipt attached to the mailing envelope.

In addition, please date and time-stamp the enclosed extra copy of this letter and return it to me in the envelope provided.

If you have any questions regarding the enclosed document, please call me.

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Very truly yours,

Paul E. Russell

Enclosures

cc: Patricia Krise Burket, Esquire  
Mr. Robert Bennett  
Mr. John C. Miller, Jr.

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**Responses of PFG Gas, Inc. and  
North Penn Gas Company  
to Questions of the  
Pennsylvania Public Utility Commission**  
**Docket No. I-00040103**

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MAR 21 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Each natural gas distribution company is directed to provide specific information about its system.

- (1) For each quarter of the years 1999 to 2004, provide the following:
- (a) Number of natural gas suppliers operating on its distribution system;
  - (b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers;
  - (c) Volume of natural gas transported on its distribution system;
  - (d) Volume of natural gas transported for suppliers on its distribution system;
  - (e) Number of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other competition-related issue.

Response: See Attachment 1.

- (2) Provide the following information about security requirements that natural gas suppliers are required to maintain for licensure (66 Pa. C.S. § 2208(c)(1)(i)):
- (a) Security requirement as posted in the distribution company's initial supplier tariff.

Response: See Attachment 2.

- (b) Each change that was made to this security requirement to date.

Response: None

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MAR 25 2005

**ATTACHMENT 1**

**PFG GAS, INC. AND NORTH PENN GAS COMPANY**

| <u>Quarter</u> | <u>Year</u> | <u>1a<br/>Number of<br/>Suppliers</u> | <u>1b<br/>Residential<br/># Customers</u> | <u>1b<br/>Commercial<br/># Customers</u> | <u>1b<br/>Industrial<br/># Customers</u> | <u>1c<br/>Total Usage<br/>(Burns)</u> | <u>1d<br/>Transported<br/>for Suppliers</u> | <u>1e<br/>Number of<br/>Disputes</u> |
|----------------|-------------|---------------------------------------|-------------------------------------------|------------------------------------------|------------------------------------------|---------------------------------------|---------------------------------------------|--------------------------------------|
| 1st            | 1999        | 22                                    | 0                                         | 269                                      | 140                                      | 1687640.1                             | 1687640.1                                   | 0                                    |
| 2nd            | 1999        | 23                                    | 0                                         | 292                                      | 145                                      | 1051786.2                             | 1051786.2                                   | 0                                    |
| 3rd            | 1999        | 23                                    | 0                                         | 298                                      | 140                                      | 1092579.2                             | 1092579.2                                   | 0                                    |
| 4th            | 1999        | 23                                    | 0                                         | 360                                      | 142                                      | 1541827.4                             | 1541827.4                                   | 0                                    |
| 1st            | 2000        | 20                                    | 0                                         | 376                                      | 141                                      | 1585731.4                             | 1585731.4                                   | 0                                    |
| 2nd            | 2000        | 19                                    | 0                                         | 376                                      | 147                                      | 1225151.8                             | 1225151.8                                   | 0                                    |
| 3rd            | 2000        | 18                                    | 0                                         | 354                                      | 150                                      | 1165908.6                             | 1165908.6                                   | 0                                    |
| 4th            | 2000        | 21                                    | 0                                         | 349                                      | 149                                      | 1616701.8                             | 1616701.8                                   | 0                                    |
| 1st            | 2001        | 16                                    | 0                                         | 266                                      | 144                                      | 1387209.8                             | 1387209.8                                   | 0                                    |
| 2nd            | 2001        | 16                                    | 0                                         | 272                                      | 146                                      | 886675.9                              | 886675.9                                    | 0                                    |
| 3rd            | 2001        | 15                                    | 0                                         | 286                                      | 150                                      | 935460.7                              | 935460.7                                    | 0                                    |
| 4th            | 2001        | 16                                    | 0                                         | 285                                      | 149                                      | 1213326.4                             | 1213326.4                                   | 0                                    |
| 1st            | 2002        | 16                                    | 0                                         | 279                                      | 158                                      | 1304386.4                             | 1304386.4                                   | 0                                    |
| 2nd            | 2002        | 15                                    | 0                                         | 274                                      | 157                                      | 828954.5                              | 828954.5                                    | 0                                    |
| 3rd            | 2002        | 16                                    | 0                                         | 271                                      | 154                                      | 882525.2                              | 882525.2                                    | 0                                    |
| 4th            | 2002        | 15                                    | 0                                         | 271                                      | 160                                      | 1395351.4                             | 1395351.4                                   | 0                                    |
| 1st            | 2003        | 13                                    | 0                                         | 266                                      | 160                                      | 1282454.4                             | 1282454.4                                   | 0                                    |
| 2nd            | 2003        | 13                                    | 0                                         | 262                                      | 160                                      | 826516.9                              | 826516.9                                    | 0                                    |
| 3rd            | 2003        | 11                                    | 0                                         | 258                                      | 157                                      | 823288.7                              | 823288.7                                    | 0                                    |
| 4th            | 2003        | 10                                    | 0                                         | 272                                      | 157                                      | 1389273.4                             | 1389273.4                                   | 0                                    |
| 1st            | 2004        | 10                                    | 0                                         | 261                                      | 157                                      | 1281495.7                             | 1281495.7                                   | 0                                    |
| 2nd            | 2004        | 10                                    | 0                                         | 262                                      | 157                                      | 801850                                | 801850                                      | 0                                    |
| 3rd            | 2004        | 10                                    | 0                                         | 258                                      | 155                                      | 843795.9                              | 843795.9                                    | 0                                    |
| 4th            | 2004        | 10                                    | 0                                         | 253                                      | 154                                      | 1337637.3                             | 1337637.3                                   | 0                                    |

**ATTACHMENT 2**

SERVICES PROVIDED TO NATURAL GAS SUPPLIERS

GENERAL TERMS AND CONDITIONS  
APPLICABLE TO SUPPLIER SERVICES

1. SERVICE AGREEMENT

1.1 Description.

A Natural Gas Supplier (NGS) licensed by the Pennsylvania Public Utility Commission and intending to supply customers on the Companies' system is required to enter into a service agreement, in the form prepared by the Companies, for Daily Aggregation and Balancing (DAB) Service and/or Monthly Aggregation and Balancing (MAB) Service. DAB is required to supply customers under daily delivery Rate Schedules L and GD. MAB is required to supply customers under monthly delivery Rate Schedules GMD, SGMD, and RMD.

1.2 Term.

Service agreements shall have an initial term of one year, and be renewed for successive one-year terms thereafter unless terminated by the NGS or the Companies upon written notice to the other not less than ninety (90) days prior to the end of a term. Notwithstanding the above, the Companies may terminate a service agreement at any time as provided for by law or by provisions of this Tariff. Agreements may become effective only on the first day of a calendar month.

2. CONDITIONS OF SERVICE

2.1 Credit Qualification.

An NGS must meet the credit requirements established by the Companies for the quantity of gas proposed to be supplied. An NGS with insufficient assets may be required to post a cash deposit or other security acceptable to the Companies.

(a) Application - Applications for service under Rate Schedules DAB and/or MAB must be accompanied by a credit application, which can be obtained from the Companies' Internet website. Completed credit applications must be signed by a responsible corporate officer, and must include a current audited financial statement, annual report, 10-K reports or other filings with regulatory agencies which discuss the NGS's financial status, a list of all corporate affiliates, parent companies and subsidiaries, and any available reports from credit reporting and bond rating agencies. A non-refundable credit investigation fee of \$300.00 must accompany the application.

GENERAL TERMS AND CONDITIONS  
APPLICABLE TO SUPPLIER SERVICES (Continued)

2. CONDITIONS OF SERVICE (Continued)

2.1 Credit Qualification (Continued)

(b) Creditworthiness - NGSS categorized by the Companies as having an Investment Grade rating shall demonstrate an unsecured long-termed debt rating of 'Baa3' or better from Moody's Investors Service or 'BBB-' or better from Standard & Poors Corporation. NGSS not meeting Investment Grade criteria will be required to provide: (a) a credit guarantee letter from an Investment Grade affiliated company; or (b) security in the form of a cash deposit, a standby irrevocable letter of credit drawn upon a bank acceptable to the Companies, or a performance bond issued by a surety company acceptable to the Companies.

(c) Limits - A DAB Natural Gas Supplier with limited credit qualification shall be restricted as to the amount of gas that the Companies are obligated to accept for delivery to customers on any day. An MAB Natural Gas Supplier with limited credit qualification shall be restricted as to the size and/or number of customers assigned to its applicable aggregation pool(s). Such limits will remain in place until a new credit investigation and/or a new level of security deposit confirms that such limits should be changed.

(d) Reviews - The NGS is responsible for providing updated financial/credit information to the Companies: (a) upon the occasion of any significant change to the NGS's financial condition; or (b) routinely not less than sixty (60) days prior to the annual rollover of the NGS's service agreement(s) under Rate Schedules DAB and MAB. At that time, all security credit enhancements will be reviewed and renewed as applicable.

2.2 Communication Requirements. The NGS is responsible for providing to the Companies continuously-updated mailing and electronic addresses, as well as fax and voice telephone numbers, for communication of administrative and operational information on a 24-hour per day, 7-day per week basis. The NGS also is responsible for monitoring of the Companies' Internet website.

3. EMERGENCY CURTAILMENT

Firm delivery services are not subject to curtailment or interruption except in accordance with the gas curtailment provisions of Section 13 of the Rules and Regulations of the retail Tariff. In the event of such curtailment or interruption, the NGS must sell to the Companies all or a portion of its supply of gas that is not being used to serve Priority One and/or Essential Human Needs customers at the higher of: (a) the NGS's cost of gas at the point of delivery to the Companies; or (b) the Companies' weighted average cost of purchased gas per DTH during the period delivery services are curtailed or interrupted.



ORIGINAL

October 10, 2005

Mr. James J. McNulty, Secretary  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105

DOCUMENT  
FOLDER

RE: Docket No. I-00040103

Dear Secretary McNulty:

Please place me on the service list in the above referenced case. My contact information is:

DOCKETED  
OCT 14 2005

Pepco Energy Service, Inc.  
Sandra Guthorn Esquire  
1300 North 17<sup>th</sup> Street, Suite 1600  
Arlington, VA 22209  
1-703-253-1702  
[sguthorn@pepcoenergy.com](mailto:sguthorn@pepcoenergy.com)

Thank you for your prompt attention to this matter.

Sincerely,

  
Sandra Guthorn  
Manager, Energy Policy

RECEIVED  
05 OCT 13 AM 9:12  
PA.P.U.C. BUREAU  
SECRETARY'S BUREAU

17

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Competition Investigation : Docket No. I-00040103

NOTICE OF APPEARANCE

TO THE SECRETARY:

Please enter the appearance of the Office of Trial Staff of the Pennsylvania  
Public Utility Commission in the above-captioned proceeding.

Prosecutor(s) for the Office of Trial Staff will be:

**JOHNNIE E. SIMMS, ESQUIRE**

**CHARLES DANIEL SHIELDS, ESQUIRE**

All service on and communications to the Office of Trial Staff in this  
proceeding should be addressed:

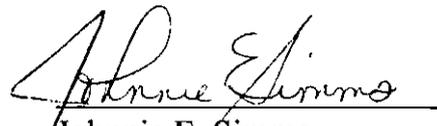
**Johnnie E. Simms, Esquire  
Pa. Public Utility Commission  
Office of Trial Staff  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
josimms@state.pa.us  
(717) 787-1976**

RECEIVED

OCT 14 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

DOCUMENT  
FOLDER

  
Johnnie E. Simms  
Chief Prosecutor

Dated: October 14, 2005

DOCKETED  
OCT 18 2005

38

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Competition Investigation : Docket No. I-00040103

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Notice of Appearance**, dated October 13, 2005, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below:

Dan Regan, Esquire  
Energy Association of Pa.  
800 North Third Street Suite 301  
Harrisburg, PA 17102

Susan K. Jackson, Esquire  
Mixenergy  
20 Summer Street  
Stamford, CT 06901

Gregory J. Stunder, Esquire  
Philadelphia Gas Works  
800 West Montgomery Avenue  
Philadelphia, PA 19122

Nancy Nielsen, Controller  
Mid American Natural Resources Inc.  
2005 West 8<sup>th</sup> Street  
Erie, PA 16505

Louis D. D'Amico Executive Director  
Independent Oil & Gas Association of Pa.  
North Ridge Office Plaza II  
115 VIP Drive Suite 110  
Wexford, PA 15090-7906

Mark R. Kempic, Esquire  
Columbia Gas of Pa.  
650 Washington Road Suite 520  
Pittsburgh, PA 15228-2703

Industrial Energy Consumers of Pa.  
240 North Third Street Suite 403  
Harrisburg, PA 17101

Daniel L. Frutchey, Sr. VP & Gen. Counsel  
Equitable Gas Company  
200 Allegheny Center Mall  
Pittsburgh, PA 15212-5352

Mark T. Ward, VIP Regulatory Affairs  
Rockwood Bldg Suite 110  
1077 Celestial Street  
Cincinnati, OH 45202-1629

Scott R. McCorry Vice President  
The Mack Services Group  
45 Branch Avenue  
P.O. Box 557  
Berwyn, PA 19312-0557

**RECEIVED**

OCT 14 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Gary A. Jeffries, Sr. Counsel  
Dominion Retail, Inc.  
1201 Pitt Street  
Pittsburgh, PA 15221

Frank Rainey Director Energy Utilization  
Bruce Davis Vice Pres Gas Supply/Mktg.  
PG Energy, Inc.  
One PEI Center  
Wilkes-Barre, PA 18711-0601

Ralph E. Dennis, Director Regul Affairs  
9960 Corporate Campus Drive Suite 200  
Constellation Newenergy- Gas Division  
Louisville, KY 40223

Mark S. Kumm, President  
PECO Energy Services  
1300 North 17<sup>th</sup> Street, Suite 1600  
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Alice A. Curtiss, Esquire  
National Fuel Resources, Inc.  
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P.O. Box 9072  
Williamsville, NY 14231

Stephen J. Sickafuse, Treasurer  
T. W. Phillips Energy Corp  
502 Keystone Drive, Suite 200  
Warrendale, PA 15086

Curtis D. Clifford, VP of Natl Gas Svc  
975 Berkshire Blvd Suite 100  
Wyomissing, PA 19610

Carl M. Carlotti, Vice President  
National Fuel Gas Distribution Corp.  
P.O. Box 2081  
Erie, PA 16512

Amy Gold, Director Regulatory Affairs  
Shell Trading & Power Company  
909 Fannin Street plaza Level One  
Houston, TX 77010

Brian D. Crowe, Dir. Rates & Reg. Affairs  
PECO Energy Company  
2301 Market Street S15-2  
Philadelphia, PA 19103

Mark C. Morrow, Esquire  
UGI Utilities, Inc. – Gas Division  
P.O. Box 858  
Valley Forge, PA 19482-0858

Jane L. Quin, Esquire  
Consolidated Edison Company of New  
York  
4 Irving Place  
New York, NY 10003

Marjorie Johnson, VP/Treasurer  
Valley Energy  
523 S. Keystone Avenue  
P.O. Box 340  
Syare, PA 18840

Charles Thomas Jr, Esquire  
Thomas Niesen, Esquire  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street Suite 500  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Harry Kingerski, Reg. Affairs Manager  
Shell Energy Services, LLC  
910 Louisiana Street, Room 4100  
Houston, TX 77002

William R. Deter, VP Corporate  
Open Flow Gas Supply Corp.  
90 Beaver Drive, Suite 110B  
PO Drawer J.  
Dubois, PA 15801-0297

Susan G. George, Esquire  
Dominion Resources  
625 Liberty Avenue  
Pittsburgh, PA 15222

Jay W. Dawson, Esquire  
Robert M. Hovanec, Esquire  
T.W. Phillips Gas & Oil Co.  
205 North Main Street  
Butler, PA 16001

Alyssa D. Weinberger  
Katherine M. Edini  
Amerada Hess Corp.  
1 Hess Plaza  
Woodbridge, NJ 07095-0961

Paul E. Russell, Esquire  
PPL  
Two North Ninth Street  
Allentown, PA 18101-1179

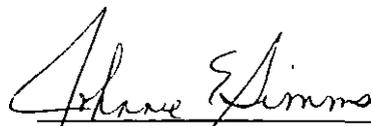
Tim Merrill, GM & VP  
NRG  
111 South Commons  
Pittsburgh, PA 15212

Christopher M. Trejchel, Esquire  
National Fuel Gas Distribution  
PO Box 2081  
Erie, PA 16512

Steven J. Keene Sr., Esquire  
Office of Consumer Advocate  
Forum Place - 5<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1923

William R. Lloyd, Jr., Esquire  
Office of Small Business Advocate  
Commerce Building - Suite 1102  
300 North 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Hon. Susan D. Colwell  
Administrative Law Judge  
Office of Administrative Law Judge  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265



Johnnie E. Simms  
Chief Prosecutor

Dated: October 14, 2005  
Docket No. I-00040103

**Zeiders, Wanda**

---

**From:** Deichmiller, Elaine  
**Sent:** Thursday, December 29, 2005 11:13 AM  
**To:** Zeiders, Wanda  
**Subject:** FW: A few more Natural Gas Stakeholders for the list - I-00040103

Wanda, can you please have someone add the following three names to our Party List for I-00040103? Thanks very much. Elaine

-----Original Message-----

**From:** Burket, Patricia  
**Sent:** Thursday, December 29, 2005 10:45 AM  
**To:** Deichmiller, Elaine  
**Subject:** A few more Natural Gas Stakeholders for the list

Elaine-

Additional names for the list:

Sandy Guthorn  
Pepco Energy Services  
1300 North 17th St.  
Suite 1600  
Arlington, VA 22209  
(410) 971-2078  
[sguthorn@pepcoenergy.com](mailto:sguthorn@pepcoenergy.com)

**DOCKETED**  
JAN 1 2006

Scott Ruben  
3 Lost Creek Drive  
Selinsgrove PA 17870  
[scott@publicutilityhome.com](mailto:scott@publicutilityhome.com)

**DOCUMENT  
FOLDER**

Robert Blake  
VP Regulatory Affairs  
MXenergy  
10010 Junction Drive, Suite 104-S  
Annapolis Junction, MD 20701  
(O) 240-456-0505 x5513  
(F) 240-456-0510  
(C) 410-707-5588  
[rblake@mxenergy.com](mailto:rblake@mxenergy.com)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

NATURAL GAS COMPETITION INVESTIGATION : DOCKET NO. I-00040103

NOTICE OF APPEARANCE

TO THE SECRETARY:

Please enter the appearance of Christopher M. Trejchel, Esquire, on behalf of National Fuel Gas Distribution Corporation. All service and communication should be addressed as follows:

DOCUMENT  
FOLDER

Christopher M. Trejchel, Esquire  
National Fuel Gas Distribution Corporation  
P.O. Box 2081  
Erie, PA 16512  
(814) 871-8035  
[trejchelc@natfuel.com](mailto:trejchelc@natfuel.com)

DOCKETED  
DEC 29 2005

Respectfully submitted,



Christopher M. Trejchel  
Attorney for National Fuel Gas  
Distribution Corporation

Dated: November 4, 2005

RECEIVED  
2005 NOV -7 AM 9:15  
PA P.U.C.  
SECRETARY'S BUREAU

25

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

NATURAL GAS COMPETITION INVESTIGATION : DOCKET NO. 1-00040

RECEIVED  
2005 NOV -7 AM 9:15  
PA.P.U.C.  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appearance was served upon the following persons by U.S. mail:

Michael Love  
Energy Association of PA  
800 North Third Street, Suite 301  
Harrisburg, PA 17102

Susan K. Jackson, Esquire  
Mixenergy  
20 Summer Street  
Stamford, CT 06901

Gregory J. Stunder, Esquire  
Philadelphia Gas Works  
800 West Montgomery Avenue  
Philadelphia, PA 19122

Nancy Nielsen, Controller  
Mid American Natural Resources, Inc.  
2005 West 8<sup>th</sup> Street  
Erie, PA 16505

Louis D. D'Amico, Executive Director  
Independent Oil & Gas Association of PA  
North Ridge Office Plaza II  
115 VIP Drive Suite 110  
Wexford, PA 15090-7906

Mark R. Kempic, Esquire  
Columbia Gas of Pennsylvania  
650 Washington Road, Suite 520  
Pittsburgh, PA 15228-2703

Industrial Energy Consumers of  
Pennsylvania  
240 North Third Street, Suite 403  
Harrisburg, PA 17101

Daniel L. Frutchey, Sr. VP & General  
Counsel  
Equitable Gas Company  
200 Allegheny Center Mall  
Pittsburgh, PA 15212-5352

Mark T. Ward, VIP Regulatory Affairs  
Rockwood Bldg., Suite 110  
1077 Celestial Street  
Cincinnati, OH 45202-1629

Scott R. McCorry, Vice President  
The Mack Services Group  
45 Branch Avenue  
P.O. Box 557  
Berwyn, PA 19312-0557

Gary A. Jeffries, Sr. Counsel  
Dominion Retail, Inc.  
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Pittsburgh, PA 15221

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Shell Trading & Power Company  
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Houston, TX 77010

Frank Rainey, Director Energy Utilization  
Bruce Davis, Vice Pres. Gas Supply/Mktg.  
PG Energy, Inc.  
One PEI Center  
Wilkes-Barre, PA 18711-0601

Brian D. Crowe, Dir. Rates & Reg. Affairs  
PECO Energy Company  
2301 Market Street, S 15-2  
Philadelphia, PA 19103

Ralph E. Dennis, Director Reg. Affairs  
9960 Corporate Campus Drive, Suite 200  
Constellation Newenergy – Gas Division  
Louisville, KY 40223

Mark S. Kumm, President  
PECO Energy Services  
1300 North 17<sup>th</sup> Street, Suite 1600  
Arlington, VA 22209

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UGI Utilities, Inc. – Gas Division  
P.O. Box 858  
Valley Forge, PA 19482-0858

Vincent A. Parisi, Esquire  
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5020 Bradenton Avenue  
Dublin, OH 43017

Jane L. Quin, Esquire  
Consolidated Edison Co. of New York  
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New York, NY 10003

Alice Curtiss, Esquire  
National Fuel Resources, Inc.  
165 Lawrence Bell Drive, Suite 120  
P.O. Box 9072  
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Stephen J. Sickafuse, Treasurer  
T. W. Phillips Energy Corp.  
502 Keystone Drive, Suite 200  
Warrendale, PA 15086

Charles Thomas Jr., Esquire  
Thomas Niesen, Esquire  
212 Locust Street, Suite 500  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Curtis D. Clifford, VP of Natural Gas Svc.  
975 Berkshire Blvd., Suite 100  
Wyomissing, PA 19610

Harry Kingerski, Reg. Affairs Manager  
Shell Energy Services, LLC  
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Tim Merrill, GM & VP  
NRG  
111 South Commons  
Pittsburgh, PA 15212

William R. Deter, VP Corporate  
Open Flow Gas Supply Corp.  
90 Beaver Drive, Suite 110B  
P.O. Drawer J  
DuBois, PA 15801-0297

Susan G. George, Esquire  
Dominion Resources  
625 Liberty Avenue  
Pittsburgh, PA 15222

Steven J. Keene Sr., Esquire  
Office of Consumer Advocate  
Forum Place -5<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1923

Jay W. Dawson, Esquire  
Robert M. Hovanec, Esquire  
T.W. Phillips Gas & Oil Co.  
205 North Main Street  
Butler, PA 16001

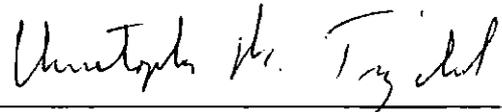
William R. Lloyd, Jr., Esquire  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Dated: November 4, 2005

Alyssa D. Weinberger  
Katherine M. Edini  
Amerada Hess corp.  
1 Hess Plaza  
Woodbridge, NJ 07095-0961

Paul E. Russell, Esquire  
PPL  
Two North Ninth Street  
Allentown, PA 18101-1179

Honorable Susan D. Colwell  
Administrative Law Judge  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265



---

Christopher M. Trejchel

ORIGINAL

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NATURAL GAS COMPETITION INVESTIGATION: DOCKET NO. I-00040103

**NOTICE OF APPEARANCE**

DOCUMENT  
FOLDER

TO THE SECRETARY:

Please enter the appearance of Mark A. Williams, President, on behalf of Mid American Natural Resources, Inc. All service and communication should be addressed as follows:

MARK A. WILLIAMS, PRESIDENT  
MID AMERICAN NATURAL RESOURCES, INC.  
2005 WEST 8<sup>TH</sup> STREET, SUITE 201  
ERIE, PA 16505  
(814) 455-2761

RECEIVED  
2005 NOV 23 AM 9:01  
PA P.U.C. BUREAU  
SECRETARY'S BUREAU

Respectfully submitted,



Mark A. Williams, President  
Mid American Natural Resources,  
Inc.

Dated: November 18, 2005

DOCKETED  
NOV 28 2005

5



**Kirkpatrick & Lockhart Nicholson Graham LLP**

7 North Second Street, 18th Floor  
Harrisburg, PA 17101-1507  
717.231.4500  
Fax 717.231.4501  
www.klmg.com

December 12, 2005

James P. Melia

717.231.5842  
Fax: 717.231.4501  
jmelia@klmg.com

**Via Hand Delivery**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Bldg., 2nd Floor  
400 North Street  
Harrisburg, PA 17120

**ORIGINAL**

Re: Natural Gas Competition Investigation  
Docket No. I-00040103

Dear Secretary McNulty:

Enclosed please find an original and three copies of a Notice of Appearance in the above captioned matter.

Copies of this document have been served on all parties to this proceeding as indicated on the enclosed Certificate of Service.

Very truly yours,

  
James P. Melia

**DOCUMENT  
FOLDER**

JPM/cem  
Enclosures

cc: Service List (w/Enclosures)

**RECEIVED**  
**2005 DEC 12 PM 3:32**  
**PA PUC  
SECRETARY'S BUREAU**

41

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Natural Gas Competition  
Investigation

:  
:

Docket No. I-00040103

---

NOTICE OF APPEARANCE

---

TO THE SECRETARY:

Please enter the appearance of the following persons on behalf of Duke Energy Gas Transmission, LLC in this proceeding.

James P. Melia, Esquire  
Kirkpatrick & Lockhart Nicholson Graham LLP  
17 North Second Street, 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
(717) 231-4500  
(717) 231-4501 (Fax)  
[jmelia@klngr.com](mailto:jmelia@klngr.com)

Susan S. Lindberg, Esquire  
Duke Energy Gas Transmission, LLC  
P.O. Box 1642  
Houston, TX 77251-1642  
(713) 627-5224  
(713) 989-3190 (Fax)  
[sslindberg@duke-energy.com](mailto:sslindberg@duke-energy.com)

Doreen F. Wrick  
Duke Energy Gas Transmission, LLC  
890 Winter Street, Suite 300  
Waltham, MA 02451  
(617) 560-1536  
(617) 560-1581 (Fax)  
[dfwrick@duke-energy.com](mailto:dfwrick@duke-energy.com)

DOCUMENT  
FOLDER

DOCKETED  
DEC 29 2005

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2005 DEC 12 PM 3:32  
SECRETARY'S BUREAU

Respectfully submitted,



James P. Melia

Kirkpatrick & Lockhart Nicholson Graham LLP  
17 N. Second Street, 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
(717) 231-4500  
(717) 231-4501 (Fax)  
[jmelia@klnq.com](mailto:jmelia@klnq.com)

Counsel for Duke Energy Gas  
Transmission, LLC

Dated: December 12, 2005

SECRETARY'S BUREAU  
PA PUC

2005 DEC 12 PM 3:32

RECEIVED  
2

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Natural Gas Competition  
Investigation

: Docket No. I-00040103  
:

---

**CERTIFICATE OF SERVICE**

---

I hereby certify that I have this day served true and correct copies of the foregoing document upon the individuals listed, in accordance with the requirements of Section 1.54 (relating to service by a participant).

Via First Class Mail

Energy Association of PA  
800 North Third Street, Suite 301  
Harrisburg, PA 17102

Gregory J. Stunder, Esquire  
Philadelphia Gas Works  
800 West Montgomery Avenue  
Philadelphia, PA 19122

Louis D. D'Amico Executive Director  
Independent Oil & Gas Assoc. of PA  
North Ridge Office Plaza II  
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Industrial Energy Consumers of PA  
240 North Third Street, Suite 403  
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Canonsburg, PA 15317-9585

Daniel L. Frutchey  
Senior VP & General Counsel  
Equitable Gas Company  
200 Allegheny Center Mall  
Pittsburgh, PA 15212-5352

SECRETARY'S BUREAU  
2005 DEC 12 PM 3:32  
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Scott R. McCorry  
Vice President  
The Mack Services Group  
45 Branch Avenue  
P.O. Box 557  
Berwyn, PA 19312-0557

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PG Energy, Inc.  
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Director Regulatory Affairs  
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502 Keystone Drive, Suite 200  
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Carl M. Carlotti, Vice President  
National Fuel Gas Distribution Corp.  
P.O. Box 2081  
Erie, PA 16512

Amy Gold  
Director Regulatory Affairs  
Shell Trading & Power Company  
909 Fannin Street, Plaza Level One  
Houston, TX 77010

Brian D. Crowe  
Director of Rates & Regulatory Affairs  
PECO Energy Company  
2301 Market Street S15-2  
Philadelphia, PA 19103

Mark C. Morrow, Esquire  
UGI Utilities, Inc. – Gas Division  
P.O. Box 858  
Valley Forge, PA 19482-0858

Jane L. Quin, Esquire  
Consolidated Edison Company of NY  
4 Irving Place  
New York, NY 10003

Marjorie Johnson  
Vice President/Treasurer  
Valley Energy  
523 S. Keystone Avenue  
P.O. Box 340  
Sayre, PA 18840

Charles Thomas, Jr., Esquire  
Thomas Niesen, Esquire  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street Suite 500  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Harry Kingerski  
Regulatory Affairs Manager  
Shell Energy Services, LLC  
910 Louisiana Street, Room 4100  
Houston, TX 77002

William R. Deter, VP Corporate  
Open Flow Gas Supply Corp.  
90 Beaver Drive, Suite 110B  
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Dominion Resources  
625 Liberty Avenue  
Pittsburgh, PA 15222

Jay W. Dawson, Esquire  
Robert M. Hovanec  
T.W. Phillips Gas & Oil Co.  
205 North Main Street  
Butler, PA 16001

Alyssa D. Weinberger  
Katherine M. Edini  
Amerada Hess Corp.  
1 Hess Plaza  
Woodbridge, NJ 07095-0961

Paul E. Russell, Esquire  
PPL  
Two North Ninth Street  
Allentown, PA 18101-1179

Curtis D. Clifford  
VP of Natural Gas Service  
975 Berkshire Blvd., Suite 100  
Wyomissing, PA 19610

Tim Merrill, GM & VP  
NRG  
111 South Commons  
Pittsburgh, PA 15212

Christopher M. Trejchel, Esquire  
National Fuel Gas Distribution  
PO Box 2081  
Erie, PA 16512

Irene M. Prezelj  
395 Ghent Road  
Akron, OH 44333

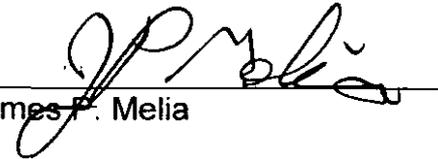
Charis Mincavage, Esquire  
Derrick P. Williamson, Esquire  
McNees Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Steven J. Keene, Sr., Esquire  
Office of Consumer Advocate  
Forum Place, 5<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1923

William R. Lloyd, Jr., Esquire  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North Second Street  
Harrisburg, PA 17101

Hon. Susan D. Colwell  
Administrative Law Judge  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Respectfully submitted,



James P. Melia

Kirkpatrick & Lockhart Nicholson Graham LLP  
17 N. Second Street, 18<sup>th</sup> Floor  
Harrisburg, PA 17101-1507  
(717) 231-4500  
(717) 231-4501 (Fax)  
[jmelia@klng.com](mailto:jmelia@klng.com)

Counsel for Duke Energy Gas  
Transmission, LLC

Dated: December 12, 2005

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PA PUC  
SECRETARY'S BUREAU

**Zeiders, Wanda**

---

**From:** Deichmiller, Elaine  
**Sent:** Wednesday, January 18, 2006 10:51 AM  
**To:** Zeiders, Wanda  
**Subject:** I-00040103

Wanda, can you please have someone add the following name to the above Party List:

Marilyn Leshner  
Summit Energy Services  
10350 Ormsby Park Place  
Suite 400  
Louisville, KY 40223

Thanks very much. Elaine

DOCUMENT  
FOLDER

DOCKETED  
JAN 18 2006

**Anthony C. Adonizio**  
**Attorney-at-Law**  
**250 North 24th Street**  
**Camp Hill, Pennsylvania 17011**

ORIGINAL

**Telephone: 717 730-2052**  
**Telecopy: 717 730-0719**  
**E-mail: acadon@ezonline.com**

January 28, 2006

**James J. McNulty, Secretary**  
**Pennsylvania Public Utility Commission**  
**P.O. Box 3265**  
**Harrisburg, PA 17105-3265**

**RE: Notice to Participate**  
**Natural Gas Stakeholders Working Group**  
**Docket No.: I-00040103 ~~E0002~~**

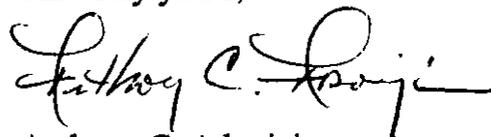
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SECRETARY'S BUREAU

Dear Secretary McNulty:

In accordance with the Commission's notice of January 20, 2006 in the above-referenced matter, enclosed for filing please find an original and three (3) copies of the Notice to Participate in the Natural Gas Stakeholders Working Group of the Borough of Chambersburg.

Sincerely yours,

  
Anthony C. Adonizio

Encls.

cc: John C. Leary, Borough of Chambersburg  
Patricia Krise Burket, Esq., PA PUC (via e-mail)  
ACA:bms

15

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation into Competition in the : Docket No. I-00040103 F0002  
Natural Gas Supply Market :

**DOCKETED**  
APR 11 2006

**NOTICE TO PARTICIPATE**

COMES NOW, the Borough of Chambersburg, and hereby makes and files its Notice to Participate in the Natural Gas Stakeholders Working Group, as follows:

1. Pursuant to this Commission's notice dated January 20, 2006, in the above captioned matter, the Borough of Chambersburg wishes to participate in the Natural Gas Stakeholders Working Group.

2. The names and contact information of the representatives of the Borough of Chambersburg in this matter are as follows:

Anthony C. Adonizio, Esq.  
250 North 24<sup>th</sup> Street  
Camp Hill, PA 17011  
Phone: 717-730-2052  
E-mail: acadon@ezonline.com

John C. Leary, Gas Superintendent  
Borough of Chambersburg  
100 South Second Street  
Chambersburg, PA 17201  
Phone: 717-261-3234  
E-mail: jleary@chbgboro.com

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PA.P.U.C.  
SECRETARY'S BUREAU

3. There are no pending Commission proceedings involving the Borough of Chambersburg, nor any pending court or administrative agency proceedings in which the Commission and the Borough of Chambersburg are parties.

4. At this time, the Borough of Chambersburg does not wish to designate a particular subgroup of the Natural Gas Stakeholders Working Group in which it will participate, but rather reserves the right to participate in any of the subgroups to the extent that issues of interest or importance to the Borough of Chambersburg may arise.

Respectfully submitted,



Anthony C. Adonizio  
Attorney for  
Borough of Chambersburg

250 North 24<sup>th</sup> Street  
Camp Hill, PA 17011

Phone: 717-730-2052

DATED: January 28, 2006



February 10, 2006

Mr. James McNulty  
Secretary, Pennsylvania Public  
Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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PA. P.U.C.  
SECRETARY'S BUREAU

ORIGINAL

RE: Docket No. ~~I-000401103 F0002~~

I - 00040103

Dear Mr. McNulty:

In the spirit of the Pennsylvania Public Utility Commission's ("the Commission") Notice dated January 20, 2006 Thermal Ventures II, LP wishes to express its interest in volunteering to participate in the Commission's Natural Gas Stakeholders Working Group session scheduled for Thursday, March 30, 2006 and herein files its request along with three (3) copies.

Consistent with the Commission's Notice we offer the following information:

- Representatives Name: Mark A. Butta
- Name of Subgroup: Customer Interface (CI)
- Stakeholders Name: Thermal Ventures II, LP
- Contact Information:
  - 236 North Champion Street
  - Youngstown, Ohio 44503
  - Telephone: (330) 747-3800
  - Facsimile: (330) 747-5626
  - Cellular: (330) 550-4542
  - E-mail address: [mbutta@tvii.biz](mailto:mbutta@tvii.biz)

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Thank you very much for your assistance in this matter. If you have any questions, or require any additional information, please give me a call at (330) 747-3800.

THERMALVENTURES II, LP

Sincerely,

Mark A. Butta  
Vice President Business Development

cc: P. K. Burket, Commission Assistant Counsel

File

97



**T.W. PHILLIPS**  
GAS AND OIL CO.

ORIGINAL

205 North Main Street  
Butler, Pennsylvania 16001  
(724) 287-2751

February 16, 2006

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FEB 16 2006

PA. PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

DOCUMENT  
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UPS EXPRESS MAIL

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor North  
Harrisburg, Pennsylvania 17105

Re: Investigation into the Natural Gas Supply Market:  
Report to the General Assembly on Competition in  
Pennsylvania's Retail Natural Gas Supply Market,  
PUC Docket Nos. I-00040103 and I-00040103F0002

Dear Secretary McNulty:

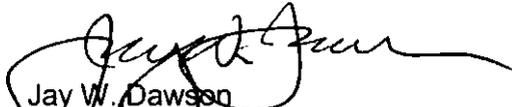
Enclosed for filing are the original and three copies of T. W. Phillips Gas and Oil Co.'s ("T. W. Phillips") Notice of Participation and Response to the January 20, 2006 Notice to Natural Gas Industry Stakeholders in the above-referenced matter.

In accordance with instructions contained in the January 20<sup>th</sup> Notice, an electronic copy of T. W. Phillips' Notice of Participation and Response is also being sent to Assistant Counsel Patricia Krise Burket via email at pburket@state.pa.us.

Please feel free to contact me (Ext. 224) should you need any further information from T. W. Phillips with respect to this matter.

Very truly yours,

**T. W. PHILLIPS GAS AND OIL CO.**

  
Jay W. Dawson  
Vice President - Legal  
and Secretary

JWD/bjr

Enclosures

cc: Robert M. Hovanec  
Andrew P. Wachter

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

FEB 16 2006

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
STAFF'S OFFICE

Investigation into the Natural Gas Supply )  
Market: Report to the General Assembly on ) Docket Nos. I-00040103  
Competition in Pennsylvania's Retail Natural ) I-00040103F0002  
Gas Supply Market )

**T. W. PHILLIPS GAS AND OIL CO.'S NOTICE OF  
PARTICIPATION AND RESPONSE TO NOTICE OF JANUARY 20, 2006  
REGARDING THE NATURAL GAS STAKEHOLDERS WORKING GROUP**

T. W. Phillips Gas and Oil Co. ("T. W. Phillips") a gas distribution company based in Butler, Pennsylvania, hereby submits its response to the Pennsylvania Public Utility Commission's (the "Commission") Notice of January 20, 2006, in the above-captioned matter, which Notice seeks comments and the participation plans of parties interested in the initial meetings of the Natural Gas Stakeholders' Working Group to be held in Harrisburg on March 30, 2006.

**A. Comments**

Recognizing the practical difficulties associated with the Commission's effort to organize the numerous issues raised in its Report to the General Assembly on Retail Gas Competition, T. W. Phillips has no objection to the three Subgroups which have been established or to the manner in which the issues have been assigned to each. T. W. Phillips would recommend, however, that consideration be given to assigning the three "Miscellaneous Issues" to Subgroups also, rather than having those issues addressed by public comment only. In that regard, since some aspects of the 'Miscellaneous Issues' are likely to be addressed in the context of one or another Subgroup's discussions of related issues anyway, T. W. Phillips would propose to assign the three 'Miscellaneous Issues' to the following Subgroups, so they will receive the same level of attention as the others:

| <u>Miscellaneous Issues</u>                               | <u>Subgroup</u>                      |
|-----------------------------------------------------------|--------------------------------------|
| NGDC Promotion of Competition                             | Customer Interface (CI) Subgroup     |
| Sustained Commission Leadership<br>in Competitive Markets | Cost of Service (CS) Subgroup        |
| Code of Conduct                                           | Inter-Company Activity (IA) Subgroup |

**B. Notice of Participation**

T. W. Phillips requests that the following representatives be permitted to participate as members of the designated Subgroups in any meetings which take place on March 30<sup>th</sup> and thereafter:

Names and Contact Information

IA Subgroup -

Robert M. Hovanec  
Executive Vice President and  
Chief Financial Officer  
  
T. W. Phillips Gas and Oil Co.  
205 North Main Street  
Butler, Pennsylvania 16001  
Telephone: 724-287-2751 (Ext. 221)  
Fax: 724-287-5021  
Email: bhovanec@twphillips.com

CI Subgroup -

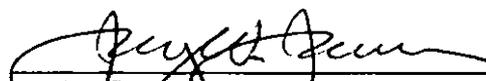
Jay W. Dawson  
Vice President – Legal  
  
T. W. Phillips Gas and Oil Co.  
205 North Main Street  
Butler, Pennsylvania 16001  
Telephone: 724-287-2751 (Ext. 224)  
Fax: 724-287-5021  
Email: jdawson@twphillips.com

CS Subgroup -

Andrew P. Wachter  
Assistance Vice President – Finance  
  
T. W. Phillips Gas and Oil Co.  
205 North Main Street  
Butler, Pennsylvania 16001  
Telephone: 724-287-2751 (Ext. 235)  
Fax: 724-287-5021  
Email: awachter@twphillips.com

Respectfully submitted,

**T. W. Phillips Gas and Oil Co.**

  
\_\_\_\_\_  
Jay W. Dawson  
Vice President – Legal

Date: February 16, 2006

DOCUMENT  
FOLDER

October 29, 2007

James P. Melia  
D 717.231.5842  
F 717.231.4501  
james.melia@klgates.com

**Via Hand Delivery**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Bldg., 2nd Floor  
400 North Street  
Harrisburg, PA 17120

ORIGINAL

Re: Investigation into the Natural Gas Supply Market  
Docket No. I-00040103

Dear Secretary McNulty:

Enclosed for filing please find an original and three copies of the comments of Texas Eastern Transmission, LP in the above captioned proceeding. Please be aware that these comments are also being filed in an electronic version with Karen Moury, Executive Director.

If you have any questions, please contact me.

Very truly yours,

  
James P. Melia  
PA Attorney I.D. 35265  
Counsel for Texas Eastern Transmission, LP

Enclosures

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2007 OCT 29 PM 3:23  
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78

October 29, 2007

James P. Melia  
D 717.231.5842  
F 717.231.4501  
james.melia@klgates.com

SECRETARY'S OFFICE

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Karen Moury, Executive Director  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Investigation into the Natural Gas Supply Market, Docket No. I-00040103  
Report of Staff and Stakeholders Working Group: Stakeholders Exploring  
Avenues for Removing Competition Hurdles ("SEARCH")

Dear Ms. Moury:

Texas Eastern Transmission, LP ("Texas Eastern") herein provides its comments addressing the Report of Staff and Stakeholders Working Group issued September 13, 2007.

Texas Eastern has been an active participant in both the gas restructuring proceedings which occurred in 1999-2000 as well as the subsequent Natural Gas Distribution Company ("NGDC") stakeholder groups convened between 2001 and 2004. Texas Eastern has an interest in ensuring that the development of gas competition in Pennsylvania does not result in a diminution of safe and reliable pipeline service into the state. Texas Eastern's primary concern and objective in this proceeding has been and continues to be the maintenance of safe and reliable firm upstream capacity requirements by Pennsylvania NGDCs and marketers into the Pennsylvania market. Texas Eastern previously filed comments at the beginning of this proceeding and is now providing final comments to the Draft Report issued on September 13, 2007.

1. Natural Gas Distribution Companies Exiting the Merchant Function (pp. 3-5).

The issue raised in the SEARCH Report relates to the assertion by marketers that competition will not thrive if NGDCs serve as the provider of the merchant function. Some of the participants in the stakeholder process raised the possibility of a supplier of last resort ("SOLR") model in which the provider was not an NGDC but a natural gas supplier ("NGS") which could include affiliates of NGDCs.

Karen Moury, Executive Director  
October 29, 2007  
Page 2

Texas Eastern notes that most participants to the stakeholder process are of the opinion that the market is not yet mature enough to justify NGDCs' exit from the merchant function (Report at p. 4). If the Commission determines that to be the case, Texas Eastern believes that the same level of reliability as is currently provided by NGDCs must be maintained. As a result, an NGS that elects to commit to certain levels of capacity and is going to be held to the "obligation to serve" requirement must, as part of that obligation, demonstrate direct contractual relationships for firm upstream capacity or meaningful access to contract rights for upstream capacity as well as firm capacity on the NGDC. To establish a standard any less stringent would have the potential to seriously compromise system reliability and safety.

Texas Eastern asserts that, if the Commission wants to move in the direction of encouraging NGDCs to exit the merchant function, it should move toward fostering a regulatory climate that provides an incentive for NGSs to make long-term capacity planning decisions, including decisions that include contracting for capacity to meet peak demand requirements with a meaningful degree of certainty. NGSs should also operate in a regulatory environment that provides some assurance of recovery of costs associated with these long-term supply commitments.

2. Off-System Sales/Capacity Release (pp. 10-11).

The issue raised in this portion of the Report suggests that the relationship between NGDCs and interstate gas pipelines/gas storage systems may act as a possible barrier affecting competition. The Report notes that, for some years, NGDCs have been participating in sharing mechanisms related to off-system sales and capacity release. Over the years, incentives for NGDCs have been added to enhance the value and utility of these programs. Most of the discussion on this issue has related to the appropriate utilization by NGDCs of revenues from off-system sales/capacity release. However, some participants have indicated that the ongoing discussion did not consider that a sufficient level of pipeline capacity is needed to serve peak demands of the residential and commercial customers in winter months nor has the discussion addressed the issue of decontracting capacity without the ability to recall that capacity in the event it is needed to meet customer requirements (Report at p. 10).

Texas Eastern in its initial comments highlighted its concern that the Commission continue to allow the existing capacity release mechanism to remain in place as the proper method for allocating pipeline capacity assets. Some parties have suggested that NGDC system assets minus storage assets could be "decontracted" without significantly jeopardizing system integrity. Texas Eastern continues to be concerned

Karen Moury, Executive Director  
October 29, 2007  
Page 3

with the concept of "decontracting" pipeline capacity to the extent capacity is no longer available to the NGDC to be recalled to meet SOLR requirements. Furthermore, decontracting pipeline capacity assets on a permanent basis raises the possibility that such capacity will not be available to meet the NGDC's SOLR requirements should the marketer default, goes bankrupt or leaves the market.

NGDCs, under Pennsylvania gas competition legislation and Commission regulations, have SOLR responsibilities if marketers do not meet their supply obligations. Marketers have no such responsibility. Decontracted capacity is required by the FERC to be posted on the pipeline's electronic bulletin board and can then go to the highest bidder. In this case, it is possible that the capacity could leave the Pennsylvania market completely. Texas Eastern contends that the full decontracting of pipeline capacity assets remains a concern and could ultimately harm Pennsylvania customers.

3. Creditworthiness and Security (pp. 17-20).

The issue raised in this portion of the Report is that creditworthiness/security requirements are identified by some marketers as barriers to market participation. Some participants have argued in favor of a standardization or even lessening of security requirements depending upon the size and business position of the NGS in the gas competition market or the NGS's particular creditworthiness characteristics.

While Texas Eastern does not opine on the type or level of security/creditworthiness requirements that should be imposed on NGSs, Texas Eastern does point out that NGSs, utilizing the capacity of interstate pipelines to serve Pennsylvania markets, must meet interstate pipelines' creditworthiness standards as specified in their respective FERC tariffs. It is, therefore, very important that the Commission continue to ensure that any NGSs operating within Pennsylvania demonstrate sufficient creditworthiness and security to secure and manage pipeline capacity as well as be able to operate in both the short term and long-term business environment. This is necessary to ensure their financial stability to meet their responsibilities as a licensed marketer. The Commission has established NGS creditworthiness/security on an NGDC-specific basis in its regulations. Texas Eastern recommends that the Commission continue to oversee and regulate these requirements in order to ensure that such requirements continue to remain adequate to protect both the customer and the integrity of the market.

Karen Moury, Executive Director  
October 29, 2007  
Page 4

4. Mandatory Capacity Assignment (pp. 29-31).

The issue raised herein is that NGSs view mandatory capacity assignment as a financial/operational constraint on their operations and as a barrier to market entry and participation. Without the burden of the mandatory capacity assignment mechanism, the supplier has more discretion in choosing whether to accept an NGDC assignment of capacity for the duration at the price offered or to make other arrangements for sufficient capacity to serve customers.

Section 2208(d)(1) of the Public Utility Code provides the NGDC with the option to release, assign or otherwise transfer capacity or Pennsylvania supply in whole or in part on a non-discriminatory basis to suppliers or industrial customers on its system. Section 2204(d)(4) requires a licensed supplier to accept such release, assignment or transfer of capacity.

NGDCs take the position that mandatory capacity assignment is a means of assuring that the NGDC will have the necessary capacity needed to serve all SOLR customers. In the absence of NGSs stepping up and taking the necessary steps to assume the SOLR function, the Commission's present mandatory capacity assignment policy should be maintained as provided for under Section 2204(d)(4) of the Public Utility Code. Texas Eastern agrees with the tentative conclusions in the Report that the reasons for establishment of the mandatory capacity assignment requirement as developed in the existing legislation still exist. The capacity assignment mechanism allows assets to follow the customer in a manner that still allows capacity to be recalled in the event of a marketer default, bankruptcy or departure from the market. NGDCs, under Pennsylvania gas competition legislation and Commission regulations, have SOLR responsibilities if marketers do not meet their supply obligations. Texas Eastern is concerned that the Commission not implement a modification to gas competition procedures that impose requirements on the pipeline which go above and beyond FERC requirements and Texas Eastern's own FERC gas tariff.

Texas Eastern is also concerned about the distinction drawn between "actual" versus "paper" assignment which may be confusing the concept of "assignment" with the concept of "capacity release". An "assignment of capacity" by the NGDC could be interpreted to be a permanent transfer of pipeline capacity by the NGDC to the NGS without any right by the NGDC to recall the capacity. Assignments of capacity involve the assignment of the contract for capacity originally entered into between the pipeline and the NGDC. Actual assignment of capacity, as opposed to a permanent capacity release, cannot occur without the approval of the FERC. The only exception to this requirement is if the original party contracting with the pipeline

Karen Moury, Executive Director  
October 29, 2007  
Page 5

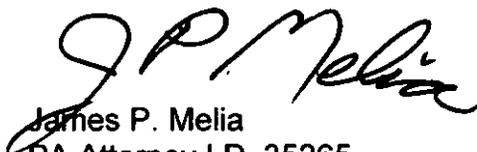
is terminating its business operations. The principal concern with the actual assignment scenario is the capacity, once transferred to the NGS, would be unavailable to the NGDC to serve the customer as part of its SOLR responsibility if the NGS defaults or goes into bankruptcy. Any suggestion of an "actual" assignment as a viable option is not practical. Transfer of capacity must be through the capacity release mechanism developed by the FERC.

Texas Eastern is also concerned about the continued use of the term "paper" assignment. "Paper" assignment is not clearly defined in the Report. A "paper" assignment could be defined as an arrangement where the NGDC capacity is "assigned" to the marketer such that a marketer may either nominate pipeline capacity or request an NGDC to nominate capacity. This arrangement can also create a problem. In order to nominate pipeline capacity, there must be a contractual relationship between the pipeline and a party nominating capacity. Unless the NGS entered into a contract directly with the pipeline or established an agency relationship with the NGDC, a "paper" assignment as used in this context may very well be a violation of the "Shipper Must Have Title Policy" established by the FERC. Texas Eastern would caution the Commission to be careful in its use of the terminology of "actual" assignment and "paper" assignment in its disposition of this issue.

Conclusion

Texas Eastern appreciates the opportunity to be able to provide input on the above issues. Texas Eastern will continue to be available to provide additional clarification on these or other issues as are necessary.

Very truly yours,



James P. Melia  
PA Attorney I.D. 35265  
Counsel for Texas Eastern Transmission, LP