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June 5, 2017

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

VIA ELECTRONIC FILING

RE: Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 59 Regulations Regarding Standards for Changing a Customer's Natural Gas Supplier; Docket No. L-2016-2577413

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are Comments of the Columbia Industrial Intervenors ("CII"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), and the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") in reference to the above-captioned proceeding.

If you have any questions concerning this matter, please contact the undersigned. Thank you.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 
Charis Mincavage

CM:cf
Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RULEMAKING TO AMEND THE	:	
PROVISIONS OF 52 PA. CODE,	:	
CHAPTER 59 REGULATIONS	:	Docket No. L-2016-2577413
REGARDING STANDARDS FOR	:	
CHANGING A CUSTOMER'S	:	
NATURAL GAS SUPPLIER	:	

**COMMENTS OF
THE COLUMBIA INDUSTRIAL INTERVENORS, THE PHILADELPHIA AREA
INDUSTRIAL ENERGY USERS GROUP, AND THE PHILADELPHIA INDUSTRIAL
AND COMMERCIAL GAS USERS GROUP**

I. INTRODUCTION

On December 22, 2016, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued an Advance Notice of Proposed Rulemaking Order ("December 2016 Order") proposing several modifications to the PUC's regulations at 52 Pa. Code §§ 59.91-59.99. Sections 59.91 through 59.99 of the Commission's regulations address the process for transferring a customer's account from a supplier of last resort ("SOLR") service to a competitive natural gas supplier ("NGS" or "supplier"), from one NGS to another NGS, and from an NGS to SOLR service. December 2016 Order, p. 1. Examples of the proposed modifications to 52 Pa. Code §§ 59.91-59.99 include: tightening notice timeframes, utilizing off-cycle switching, and other adjustments that will align NGS regulations with the Commission's Electric Generation Supplier ("EGS") rules. *Id.* at pp. 17-18.

On January 7, 2017, the *Pennsylvania Bulletin* published the Commission's December 2016 Order and invited interested parties to submit Comments on the proposed rulemaking. Several entities filed Comments in response, including natural gas distribution companies

("NGDCs"), natural gas suppliers ("NGSs"), the Retail Energy Supply Association ("RESA"), and the Office of Consumer Advocate ("OCA").

At a Public Meeting on April 20, 2017, the PUC issued an Order ("April 2017 Order") inviting interested stakeholders to further comment on the Commission's proposed modifications to 52 Pa. Code §§ 59.91-59.99. The Commission based its request for further comment on the fact that "parties raised several concerns and/or introduced new proposals that warrant further exploration." April 2017 Order, p. 3. While interested parties may comment on any topic, the PUC expressly invited further discussion on the following subjects: backdating NGS switches; limitations on off-cycle switching; the NGDC acting as a capacity "clearinghouse;" diversity of NGDC systems; and data elements in 52 Pa. Code § 59.93. April 2017 Order, pp. 3-4.

In accordance with the April 2017 Order, the Columbia Industrial Intervenors ("CII"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), and Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") (collectively, "Industrial Customers" or "Industrials") submit the following Comments. The Industrial Customers are primarily concerned with the potential rate impact to large commercial and industrial ("Large C&I") gas customers as a result of NGDCs' compliance with the December 2016 Order's proposed modifications to 52 Pa. Code §§ 59.91-59.99, particularly the PUC's proposal for accelerated switching (which requires off-cycle switching). As discussed further below, Large C&I customers generally obtain their supply contracts based on a "first of the month" start date. Under this approach, a Large C&I customer will negotiate the transportation basis that applies to its supply throughout the contract term and lock in all or a portion of its supply for future months based upon the New York Mercantile Exchange ("NYMEX") price at any given point prior to the delivery month. Because many Large C&I customers, including the Industrials, rely upon this methodology in obtaining their gas supply,

the implementation of off-cycle switching is not needed for those classes and Large C&I customers should not bear the cost responsibility for this off-cycle switching.

II. COMMENTS

On February 21, 2017, several NGDCs filed comments in response to the PUC's December 2016 Order expressing serious concerns with the proposed off-cycle switching regulations. *See, e.g., Comments of Columbia Gas of Pennsylvania, Inc. to Advanced Notice of Proposed Rulemaking Order*, Docket No. L-2016-2577413, (Feb. 21, 2017) ("Columbia Comments"); *Comments of the Energy Association of Pennsylvania to Advanced Notice of Proposed Rulemaking Order – Standards for Changing a Customer's Natural Gas Supplier*, Docket No. L-2016-2577413, (Feb. 21, 2017) ("EAP Comments"). Multiple NGDCs indicated that they do not possess system capability to handle off-cycle switching at this time and would need to undertake expensive system modifications to do so, which could cost several million dollars. *See, e.g., Columbia Comments*, p. 12; *EAP Comments*, p. 6. Commenting NGDCs indicated that they would pursue cost recovery for those system modifications via a reconcilable customer surcharge.

Section 2205(c)(7) of the Pennsylvania Public Utility Code provides that NGDCs retain the "right to recover on a full and current basis all prudent and reasonable costs incurred to implement customer choice from retail natural gas customers or other entities as determined by the [C]ommission. Recovery from retail natural gas customers shall be made pursuant to a reconcilable automatic adjustment clause under section 1307 (relating to sliding scale of rates; adjustments)." 66 Pa. C.S. § 2205(c)(7). *See, e.g., PECO Energy Company's Comments Regarding Standards for Changing a Customer's Natural Gas Supplier*, Docket No. L-2016-2577413, pp. 8-9 (Feb. 21, 2017) ("PECO Comments"); *Comments of Philadelphia Gas Works to Advance Notice of Proposed Rulemaking Order*, Docket No. L-2016-2577413, pp. 11-12 (Feb. 21,

2017) ("PGW Comments"); *Joint Comments of Peoples Natural Gas Company, LLC and Peoples TWP, LLC*, Docket No. L-2016-2577413, p. 6 (Feb. 21, 2017) ("Peoples Comments").

Because several NGDCs indicated they would have to significantly modify their systems to accommodate off-cycle switching if the December 2016 Order's proposed modifications take effect, the Industrial Customers are concerned that NGDC compliance with these new regulations will result in additional operational costs that will be passed onto NGDCs' Large C&I customers in the form of higher rates.¹ The vast majority of Large C&I gas customers establish their supply contracts on a first of the month start date. This approach has been developed over several years since larger customers have elected to secure their own gas supply and establish transportation contracts for that supply with their NGSs. This "first of the month" method also corresponds with the NYMEX contracts that often serve as the pricing mechanism for the supply. A Large C&I customer negotiates the transportation basis that applies throughout the contract term, then has the ability to lock all or a portion of its supply for future months based on the NYMEX price at any given point prior to the delivery month. Because this "first of the month" approach is an industry standard method to administer Large C&I customer natural gas supply contracts, the implementation of off-cycle switching is not needed for this class (nor should Large C&I customers bear any of the costs associated with off-cycle switching).

Based upon the aforementioned, Large C&I customers would not be able to benefit from the off-cycle switching provisions, much less even utilize these provisions due to the way in which Large C&I customers obtain their natural gas supply. Considering that NGDCs have suggested

¹The NGDCs did not provide quantifiable cost-benefit analysis on these issues. Accordingly, before any assessment could be made, additional analysis would need to be performed in order to: (i) precisely capture the costs of implementing off-cycle switching; (ii) appropriately quantify the benefits of off-cycle switching; and (iii) accurately account for the fact that several Large C&I customers rarely engage in off-cycle switching due to their practice of negotiating long-term supply contracts.

that the costs of implementing such a process would be exorbitant, Large C&I customers could then be subject to increased costs for which they would receive no benefit. For these reasons, the Industrials submit that the aforementioned proposals should not be implemented unless and until further review and analysis of the accompanying costs and benefits occurs. Moreover, if such proposals are adopted, the resulting costs of implementation should not be applied to Large C&I customers because these customers would not be able to utilize these programs.

III. CONCLUSION

WHEREFORE, the Industrial Customers respectfully request the Pennsylvania Public Utility Commission consider these Comments in evaluating whether to approve and implement the regulations proposed in the December 2016 Order.

Respectfully submitted,

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