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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 Further Comments of Valley Energy, Inc. in reference to the above-captioned proceeding.

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

Respectfully submitted,

McNEES WALLACE & NURICK LLC

A handwritten signature in black ink that reads 'Alessandra L. Hylander'.

By

Alessandra L. Hylander

AH: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	:	

**FURTHER COMMENTS OF
VALLEY ENERGY, INC.**

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") in the above-captioned proceeding to solicit Comments from interested parties on amendments 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. The Commission proposes several modifications to 52 Pa. Code §§ 59.91-59.99, including tightening notice timeframes, utilizing off-cycle switching (also referred to as "mid-cycle switching" herein), 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 provided stakeholders with the opportunity to submit Comments on the proposed rulemaking. Accordingly, on February 21, 2017, Valley Energy, Inc. ("Valley" or "Company")

filed Comments (“Initial Comments”) with the PUC expressing its position on the Commission’s December 2016 Order. In those Initial Comments, Valley conveyed that the proposed changes to 52 Pa. Code §§ 59.91-59.99 are inappropriate because compliance with those revised regulations would result in significant financial and administrative burdens to not just Valley, but also other smaller natural gas distribution companies (“NGDCs”). As a result, Valley recommended that the Commission refrain from implementing the December 2016 Order’s recommendations. In the alternative, if the PUC opts to approve the December 2016 Order's proposed regulations, Valley commented that the PUC should exempt small utilities, particularly those without Electronic Data Interchange (“EDI”) capabilities, from the December 2016 Order's mid-cycle switching provisions.

At a Public Meeting on April 20, 2017, the PUC issued an Order ("April 2017 Order") requesting further comment on its proposed modifications to 52 Pa. Code §§ 59.91-59.99. The Commission noted that "parties raised several concerns and/or introduced new proposals that warrant further exploration." April 2017 Order, p. 3. While stakeholders are free to comment on any topic they believe warrants additional comment, 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.

In accordance with the April 2017 Order, Valley submits the following comments. As explained below, Valley respectfully reminds the Commission that the averments in the Company's Initial Comments still hold true – the PUC's proposed changes to 52 Pa. Code §§ 59.91-59.99 are problematic for small NGDCs like Valley because compliance with those rules would present significant financial and administrative burdens. As a result, the PUC should refrain from

implementing its proposed modifications to 52 Pa. Code §§ 59.91-59.99, particularly the off-cycle switching proposals. In the alternative, if the PUC implements the December 2016 Order's proposed regulatory modifications, the Commission should exempt small NGDCs, particularly those without EDI capabilities, from the December 2016 Order's mid-cycle switching provisions.

II. COMMENTS

As indicated in Valley's Initial Comments, Valley is a small NGDC with a 2016 revenue of \$8,067,859, which classifies Valley a "small gas utility" under 52 Pa. Code § 53.63. Initial Comments, p. 2. Valley offers natural gas distribution service to all customers in its territory and provides natural gas supply service to its SOLR customers. *Id.* Currently, Valley does not have EDI capabilities. As such, because of the small nature of Valley's operations and its lack of EDI, the December 2016 Order's proposed modifications to NGS switching regulations creates unique and amplified impacts on Valley's operations, particularly if it must accommodate mid-cycle switching from SOLR service to NGS service, NGS service to SOLR service, and from one NGS to another NGS. *Id.* Unlike larger NGDCs, Valley does not have a large customer base and significant amount of gas sales to offset the expense of complying with 52 Pa. Code §§ 59.91-59.99 as modified by the December 2016 Order. *Id.* Accordingly, Valley recommended that the Commission refrain from approving the December 2016 Order's proposed regulations at this time.

A. The Commission Should Not Implement Modifications To 52 Pa. Code §§ 59.91-59.99 Pursuant To The December 2016 Order.

In the December 2016 Order, the Commission proposes several amendments 52 Pa. Code §§ 59.91-59.99. As indicated in its Initial Comments, Valley is particularly concerned by the Commission's desire to require off-cycle switching. *Id.* Currently, 52 Pa. Code § 59.94 provides that when a customer notifies the NGS it wishes to switch to another supplier, "the NGDC shall make the change at the beginning of the first feasible billing period following the 10-day waiting

period, as prescribed in § 59.93 (relating to customer contacts with NGSs)." The "natural gas industry faces unique challenges that make accelerated switching a different, and more difficult, process in comparison to imposition of accelerated switching in the electric industry because of a lack of advanced metering, various back-office processes, and nomination timeframes." Initial Comments, p. 3. Accelerated switching requires off-cycle switching, which presents operational problems for small NGDCs like Valley. *Id.*¹

As noted in Valley's Initial Comments, "NGSs in Valley's territory serve only the largest 68 accounts and do not use consolidated billing." *Id.* While larger NGDCs may use different electronic methodologies, such as EDI, in communicating customer requests for mid-cycle switching with NGSs, smaller NGDCs without such technology will find it incredibly difficult to successfully switch customers' sources of natural gas supply in a three-day time period. For example, because Valley lacks EDI capabilities, it would have to process each bill that implements a mid-cycle switch by hand. The December 2016 Order does not provide solutions for utilities without EDI capabilities, and instead indicates it will leave this to the "discretion of the NGDCs and NGSs." December 2016 Order, p. 28.

Even utilities that have EDI "may find it difficult to comply with a three-day timeframe because of a lack of advanced metering, back-office processes, gas nomination timeframes, and other operational constraints that cannot be easily circumvented without significant cost." Initial Comments, p. 3. Other large NGDCs filed Comments in this proceeding expressing serious concerns the December 2016 Order's proposed regulations, particularly with regard to operational feasibility of off-cycle switching. *See, e.g., Comments of Columbia Gas of Pennsylvania, Inc. to*

¹ As noted in its Initial Comments, Valley does not object to shortening the enrollment window for supplier changes that occur on the meter read date (*i.e.*, on-cycle switches).

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"). Many of those larger NGDCs suggested that they do not possess system capability to handle off-cycle switching at this time and would need to undertake expensive system modification to do so. *See, e.g.*, Columbia Comments, p. 12; EAP Comments, p. 6.

Accordingly, Valley respectfully requests that the Commission decline to implement the regulatory modifications proposed in the December 2016 Order, because it is operationally difficult for small NGDCs like Valley to comply with the proposed accelerated switching provisions.

B. If The Commission Implements The December 2016 Order's Modifications To 52 Pa. Code §§ 59.91-59.99, The Commission Should, At A Minimum, Exempt Small Utilities, Particularly Those Without EDI, From The Mid-Cycle Switching Provisions.

If the Commission effectuates the December 2016 Order's proposed modifications to 52 Pa. Code §§ 59.91-59.99, the PUC should exempt small utilities, particularly those without EDI capabilities, from mid-cycle switching obligations. This request is consistent with how the Commission has addressed similar issues for small NGDCs and Electric Distribution Companies ("EDCs").

For example, in 2016, the PUC exempted Valley from the requirement to place a NGS logo on its customer bills. *Id.* at p. 4 (citing Final Order, *Petition of Valley Energy, Inc. for Delay in Logo Portion of Joint Natural Gas Distribution Company – Natural Gas Supplier Bill Format*, Docket No. P-2016-2550226 (July 21, 2016); Final Order, *Investigation of Pennsylvania's Retail*

Natural Gas Market: Joint Natural Gas Distribution Company – Natural Gas Supplier Bill; Docket No. M-2015-2474802 (July 21, 2016) (collectively, "NGS Logo Final Orders"). In the NGS Logo proceedings, Valley stressed to the Commission that because the Company lacks EDI capabilities necessary to issue consolidated bills, "implementing system modifications to add NGS logos onto the Company's bills would be unduly burdensome and expensive." *Id.* Valley estimated it will cost over \$500,000 to install EDI and implement consolidated billing. *Id.* Because of Valley's small customer base and limited resources, and because no NGSs serving Valley's existing transportation customers complained about the lack of consolidated billing, the PUC concurred with the Company that it should be exempted from that regulatory burden. *See id.* (citing NGS Logo Final Orders, pp. 7-9). Similar modified requirements have also been applied to small EDCs in the Commonwealth.

Valley remains willing to follow the same process for mid-cycle switching that it proposed for the NGS logos. In other words, the Company is open to delaying implementation of the mid-cycle switching aspect of the December 2016 Order's proposed regulations until a NGS requests mid-cycle switching. *Id.* If and when that request occurs, Valley would file a notice with the Commission containing a plan to investigate the costs and develop an implementation timeline to pursue consolidated billing, mid-cycle switching and the addition of NGS logos to the bill. *Id.* Once those initial studies are complete, Valley will either file (i) a further notice with the Commission which includes either an implementation plan and cost recovery proposal, or (ii) a request for a permanent waiver of the requirement if cost recovery and timely implementation of the requested billing and switching modifications are infeasible.

In conclusion, Valley submits that if the PUC approves the December 2016 Order's proposed regulatory changes to 52 Pa. Code §§ 59.91-59.99, the Commission should expressly

exempt Valley, and other small utilities, from compliance with the December 2016 Order's mid-cycle switching provisions.

III. CONCLUSION

WHEREFORE, Valley Energy, Inc. respectfully requests 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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Dated: June 5, 2017