



## I. INTRODUCTION

On behalf of Direct Energy Services, LLC, Direct Energy Business Marketing, LLC and Direct Energy Business, LLC and (collectively, “Direct Energy”) these Comments are submitted in response to the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) Advance Notice of Proposed Rulemaking Order (“ANPR”) soliciting comments about amending and adding to regulations at 52 Pa. Code § 62.225.<sup>1</sup> The proposed changes to Section 62.225 address several issues affecting the transportation of natural gas by Natural Gas Suppliers (“NGSs”) on the distribution systems of natural gas distribution companies (“NGDCs”). The proposed regulatory changes are the result of the Commission’s Natural Gas Retail Markets Investigation (“RMI”) and are intended to improve the competitive market by revising how capacity is assigned and addressing related issues including penalties and imbalance trading.

Direct Energy is an NGS licensed by the Commission to provide natural gas and related services to both residential and small commercial (“Choice”) customers as well as larger commercial and industrial transportation (“Transportation”) customers throughout the Commonwealth of Pennsylvania.<sup>2</sup> Direct Energy is a North American affiliate of Centrica plc, a leading international provider of energy and other energy-related services with over 28 million customer relationships worldwide. Direct Energy provides electricity, natural gas and other energy services to more than 5 million residential homes and businesses across North America. Direct Energy has a unique business model, and extensive experience in providing innovative gas and electricity products and services to residential, small and large commercial and industrial

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<sup>1</sup> Pursuant to the ANPR and the notice published in the *Pennsylvania Bulletin*, the Commission invited comments from interested parties to be filed by October 31, 2017. See ANPR at Ordering Paragraphs 1-2; 47 Pa.B. 5769, 5786 (September 16, 2017).

<sup>2</sup> See Direct Energy Services, LLC (Docket No. A-125135); Direct Energy Business Marketing, LLC (Docket No. A-2013-2365792), and Direct Energy Business, LLC (Docket No. A-125072).

customers, utilities, and government entities. Lastly, Direct Energy is the largest business gas supplier (by volume) in the eastern United States.

As explained more fully below, Direct Energy's Comments offers suggestions and modifications to better streamline the processes proposed by the Commission, provide more transparency for utility reporting, and to address issues related to costs. These Comments also provide specific proposed changes to Section 62.225 which should be adopted by the Commission to implement the comments, suggestions and modifications proposed by Direct Energy.

## **II. COMMENTS**

### **A. Uniform Capacity Costs For All Customers**

In the ANPR, the Commission proposes to replicate the approach of Peoples Natural Gas Company ("Peoples") on capacity payments.<sup>3</sup> As noted by the Commission, Peoples releases capacity assets to the NGS like all other NGDCs, but instead of the NGS paying for it, all customers pay the average system cost of capacity (regardless of their participation within the market).<sup>4</sup>

Direct Energy supports the Commission's proposal, and agrees that applying Peoples' capacity payment mechanism statewide creates immediate and potentially lasting benefits for competition, including non-shopping customers.<sup>5</sup> That being said, Direct Energy notes that the rule should apply to Choice customers (who are, in almost all cases assigned capacity) and any

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<sup>3</sup> ANPR at 10.

<sup>4</sup> ANPR at 8.

<sup>5</sup> See ANPR at 10.

non-Choice customer for whom capacity is assigned by the utility, whether as a mandatory requirement or as a result of the customer (or its agent) requesting that capacity be assigned.

Direct Energy agrees with the Commission that any assigned capacity should be done on a slice of system basis. But, care should be taken to assure that any assignment does not unreasonably discriminate in favor of any NGDC's affiliate.

In addition, Direct Energy agrees that such a socialization of upstream assigned capacity costs has the potential of making the market more competitive. Recovering capacity costs through a distribution based charge will reduce the financial risk that the NGS has to bear, potentially reducing security requirements and deposits, and improving cash flow. This in turn will free up capital for NGSs and permit greater investment in more innovative products and services. While Direct Energy believes that the risk of NGS non-payment is low, a distribution rate recovery scheme will reduce the risk of loss if an NGS does become insolvent or declares bankruptcy.

This change will require coordination between the NGS and the NGDC. Customer education and a transition process would also assist in assuring that it is implemented smoothly. Direct Energy recommends that the Commission establish a working group, chaired by the Office of Competitive Market Oversight ("OCMO"), to work out and supervise the details of implementation.

To restate the rule recommended by Direct Energy: For any customer that is assigned capacity from the utility — either on a mandatory or voluntary basis — (a) the capacity should be assigned on a slice of system, non-discriminatory basis and (b) the costs of that capacity should be recovered through distribution rates. For ease of reference, Direct Energy's proposed language for Section 62.225(a)(3) is shown in Appendix A.

## **B. Capacity Assignment From All Assets**

The Commission's proposal would allow all assets equal access to the market.<sup>6</sup> The Commission would allow virtual access to assets, and has invited parties to suggest controls for restricted assets to follow the customer in a virtual sense.<sup>7</sup>

Direct Energy agrees that capacity should be assigned, as near as possible on a slice of system basis. Direct Energy recognize that some assets (Section 7C contracts, for example) may not be so assignable. So, Direct Energy supports the Commission's proposal to create virtual access to various supply assets.

While Direct Energy supports the concept of virtual access, virtual access must be structured to insure that access is established on a non-discriminatory basis. It is also important that if the asset creates cost advantages that reduce the cost of gas for the NGDC, then those same cost advantages should be shared with the NGS. Sharing the benefits of virtual access will help ensure that NGSs are competitive.

Direct Energy's proposed language for Section 62.225(a)(2) is shown in Appendix A.

## **C. Imbalance Trading**

The Commission has proposed that NGDCs should permit imbalance trading "on the day the imbalance occurred."<sup>8</sup> The Commission noted that its' proposal is focused on daily imbalances, and not month-end cash-in/outs.<sup>9</sup>

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<sup>6</sup> ANPR at 13-14.

<sup>7</sup> ANPR at 13-14.

<sup>8</sup> ANPR at 16-17.

<sup>9</sup> *Id.*

Direct Energy strongly supports the imbalance trading concept and notes that such trading is already permitted on some of the NGDC systems.<sup>10</sup> Notably, NGDCs that permit imbalance trading, like Columbia Gas of Pennsylvania (“CPA”), allow trades to be made up to 72 hours after the day in question. Since in many cases an imbalance position won’t become known until after the day is over, a period of time is needed for the supplier to communicate and attempt to complete trades with counterparties.

Direct Energy also supports imbalance trading between Choice and Transportation programs. Artificial restrictions about imbalances trading between Choice and Transportation, pools appear to be without operational justification. Trading imbalances between pools simply allows an NGS to offset a positive balance against a negative imbalance. There is no net impact on the system, and the trade is simply a paper transaction with minimal or no costs involved. So, there is no practical reason to restrict trading between pools.

The Commission’s suggestion that real-time communications is a necessary requisite for imbalance trading is correct. Direct Energy has found that some systems provide useful tools to manage imbalances. For example, CPA provide notice to all shippers on a real time basis whenever an over or under delivery is recorded. Simply put, the timely transmission of usage data can also allow NGSs (a) to manage month-end cash-in/outs and (b) help NGSs comply with certain Operational Flow Orders (“OFOs”) or Operational Matching Orders (“OMOs”).

Direct Energy’s proposed language for Section 62.225(a)(5) is shown in Appendix A.

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<sup>10</sup> Direct Energy supports the use of smart meters to provide timely information.

#### **D. Penalty Structure During Non-Peak Times**

The Commission has proposed that language similar to UGI's be added to all NGDC supplier tariffs and that all penalties should be structured based upon market conditions similar to that found in UGI's tariff.<sup>11</sup>

Direct Energy strongly supports the Commission's proposal for market based penalties during off-peak periods.<sup>12</sup> Generally Direct Energy supports a clear, market based, standardized penalty structure for off-peak periods. Market based mechanisms are more fair and dynamic, and will serve as an effective deterrent to behavior that may threaten operational integrity, while, at the same time, bear a more reasonable relationship to the conditions in the market and on the system.

The Commission has asked whether a minimum penalty is needed.<sup>13</sup> Direct Energy disagrees with the need for a minimum penalty structure. As noted by the Commission, many NGDCs already have "no penalty" clauses within their tariffs and waive penalties under certain circumstances.<sup>14</sup> In addition, Direct Energy also supports a requirement that the NGDC exempt an NGS from any penalty where the NGS's imbalance benefits the distribution system's daily balancing position.<sup>15</sup> NGSs who benefit the system — either intentionally or unintentionally — should not face a penalty because they did not cause any harm to the system's balancing position.

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<sup>11</sup> ANPR at 19.

<sup>12</sup> ANPR at 19-20.

<sup>13</sup> ANPR at 19.

<sup>14</sup> ANPR at 19.

<sup>15</sup> *See* ANPR at 20.

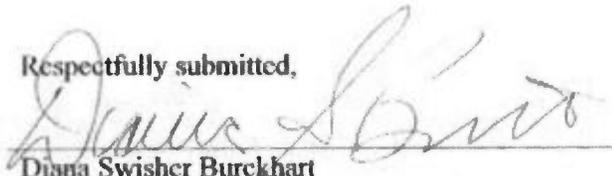
Moreover, NGDCs should offset any daily imbalances before assigning any daily imbalance penalties. For example if five customers are 200 Dt over delivered, and ten customers are 500 Dt under delivered, the NGDC should offset the 200 against the 500 and bill only 300 Dt penalties. The 300 would be allocated to customers that are under delivered in the ratio of their under delivery. In this way, the system recognizes the advantage of the over deliveries and only bills on the true under delivery.

Direct Energy's proposed language for Section 62.225(a)(6) is shown in Appendix A.

#### **I. CONCLUSION**

Direct Energy appreciates the Commission's continuing efforts to support robust competition in Pennsylvania and the opportunity to provide its viewpoints regarding this rulemaking. Direct Energy looks forward to working with the Commission and the other parties on the issues raised in the ANPR.

Respectfully submitted,



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For:

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## Appendix A

Direct Energy proposes that Section 62.225 read as follows:\*

§ 62.225. Release, assignment or transfer of capacity.

(a) An NGDC holding contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or a city natural gas distribution operation, may release, assign or transfer the capacity or Commonwealth supply, in whole or in part, associated with those contracts to licensed NGSs or large commercial or industrial customers on its system.

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(2) A release of an NGDC's pipeline and storage capacity assets must follow the customers for which the NGDC has procured the capacity, subject only to the NGDC's valid system reliability and Federal Energy Regulatory Commission constraints. When release must be restricted due to reliability or other constraints, an NGDC shall develop a mechanism that provides proxy or virtual access to the assets. **Virtual access shall be established on a non-discriminatory basis, and cost advantages shall be shared with the NGSs.**

(3) A release, assignment or transfer of capacity or Pennsylvania supply shall be subject to applicable contractual arrangements and tariffs. Capacity or Pennsylvania supply costs shall be charged to all **distribution** customers by the NGDC as a non-bypassable charge based on the average contract rate for those services. **The costs shall be assigned to each customer class on a slice of system, non-discriminatory basis and the costs of that capacity will be recovered through distribution rates.**

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(5) An NGDC shall provide the opportunity for imbalance trading **for three days after on the day** the imbalance occurred. Capacity may be traded between market participants provided that either:

- (i) The trade improves the position of both parties.
- (ii) The trade improves the position of one party and is agreed to by the second party but does not negatively impact the second party's imbalance.

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\* This language shows changes proposed by Direct Energy after accepting the changes proposed by the Commission in the ANPR.

(6) Penalties during system off-peak periods must correspond to market conditions.

(i) An NGDC shall use the system average cost of gas as the reference point for market based penalties. If an NGDC takes service from a local hub, it may use the local hub as a reference point for market based penalties.

(ii) The lowest penalty must be set at the market price.

**(iii) An NGDC should offset any daily imbalances before assigning any daily imbalance penalties.**