

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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

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”).¹

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

¹ Dominion Peoples also supports the comments submitted today by the Energy Association of Pennsylvania.

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.² 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 Affairs³ 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

² 66 Pa.C.S. § 2203(1) and (2).

³ See Dominion Peoples' Statement No. 1.

major reworking of the Choice Act,⁴ the 1307(f) mechanism in the Public Utility Code (“Code”),⁵ 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.⁶

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

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

⁵ 66 Pa. C.S. § 1307(f).

⁶ 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.”⁷

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-00030162.⁸ 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.⁹ As for its own experience, Dominion Peoples negotiates delivery rates with its competitive customers and not with the gas supply marketer. These negotiations

⁷ Testimony of William L. Lloyd, Jr., Small Business Advocate, Tr. at 70.

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

⁹ 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.¹⁰ While OCA's utmost concern is that the costs are not double recovered by the NGDC in distribution rates as well as through the

¹⁰ 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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