

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

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

October 15, 2004

**Hand Delivered**

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

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

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.

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:

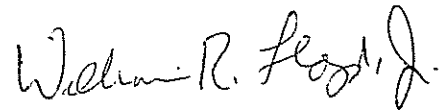
So I think the real focus ought to be on, are there things within the parameters the Legislature set which are creating unnecessary impediments to competition. One of those I believe is the lack of uniform penalties and the lack of a penalty base which reflects actual market prices.

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

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

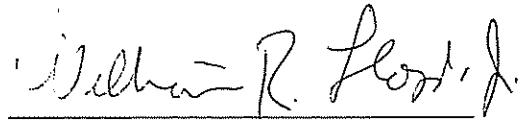
T.W. Merrill  
NRG Energy Center  
111 South Commons Avenue  
Pittsburgh, PA 15212

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

A handwritten signature in black ink, reading "William R. Lloyd, Jr.", written over a horizontal line.

William R. Lloyd, Jr.  
Small Business Advocate

Dated: October 15, 2004