



UGI Energy Services, Inc.

January 17, 2012

RECEIVED

JAN 17 2012

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

VIA FEDERAL EXPRESS

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

Re: Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan; Docket No. I-2011-2237952

Dear Secretary Chiavetta:

Enclosed please find the original plus five (5) copies of the comments of UGI Energy Services, Inc. to the Commission's Tentative Order entered December 16, 2011 in the above-captioned proceeding.

Should you have any questions concerning this submission, please feel free to contact me at (610)-992-3750.

Respectfully yours,

Melanie J. Elatieh
Counsel for UGI Energy Services, Inc.

Cc: Office of Competitive Market Oversight Retail Markets Investigation (via e-mail at RMI@state.pa.us)

Enclosure

**COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Re: Investigation of Pennsylvania’s :
Retail Electricity Market: Intermediate : **Docket No. I-2011-2237952**
Work Plan :

RECEIVED

JAN 17 2012

COMMENTS OF UGI ENERGY SERVICES, INC. PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

I. COMMENTS ON THE PROPOSED INTERMEDIATE WORK PLAN

UGI Energy Services, Inc. d/b/a UGI EnergyLink (“UGIES”)¹ submits these comments in response to the Pennsylvania Public Utility Commission’s (“Commission’s”) Tentative Order entered December 16, 2011 (“Tentative Order”) in the above-referenced proceeding. The Tentative Order sets forth the Commission’s intermediate work plan (“IWP”) to improve the current retail electricity market. In these comments, UGIES addresses the proposals and issues identified in the IWP relating to the following topics: A) consumer education measures; B) acceleration of the consumer switching timeframe; C) customer referral programs; D) a retail opt-in auction program; and E) the presentation of the Electric Distribution Company’s (“EDC’s”) default service or “price-to-compare” on customer bills.

¹ As background, UGIES is a Pennsylvania-based company and licensed natural gas supplier (“NGS”) and electric generation supplier (“EGS”) that has provided electric generation and natural gas supply service to small, medium and large commercial and industrial customers across the Commonwealth since the inception of retail competition in Pennsylvania. More recently, UGIES has begun providing natural gas supply service to residential customers in Pennsylvania in certain natural gas distribution company service territories and is contemplating expansion of its residential marketing efforts. UGIES’ retail commodity marketing activities extend beyond Pennsylvania’s borders into the Mid-Atlantic region and New York. As an electric supplier, UGIES sells to customers behind 19 electric distribution companies in Pennsylvania, New Jersey, Delaware, Maryland, the District of Columbia and New York. On the gas side, UGIES serves customer accounts behind 33 local distribution companies in Pennsylvania, New Jersey, Delaware, Maryland, the District of Columbia, New York, Virginia, West Virginia and North Carolina.

A. Customer Education

UGIES fully supports the proposed mailings detailed in the Tentative Order as furtherance of the Commission's goals to enhance customer education. As part of the IWP, the Commission also seeks to enhance the shopping experience for small business customers (specified in the IWP as those customers with a peak demand of 25 kW or less) by allowing such customers to obtain comparative pricing data along with other terms and conditions from various suppliers via the PAMPowerSwitch.com website. UGIES is generally supportive of the Commission's efforts in furthering consumer education as to retail choice, and believes that the current combination of market forces plus the Commission's listing of competitive suppliers that currently offer service in the customer's EDC service territory remains the appropriate method for communicating the choices available to small business customers.

As the Commission is aware, suppliers compete for small business customers in a variety of ways. For example, suppliers may offer a standard price that is offered to all similarly-situated customers and held open for a certain period of time. Or suppliers may offer pricing tailored specifically to the small business customer's specific usage profile, or offer a variety of product solutions to meet the customer's consumption needs, including, for example, a green or HVAC product. The PAMPowerSwitch.com website is predominately about "standard price" competition and cannot practically show all of the distinctions in price and product offerings made available by suppliers to these customers. While UGIES is concerned that the PAMPowerSwitch.com website, standing alone, could provide customers with imperfect market information and thereby could reduce these customers' understanding of the actual choices available to them, UGIES recognizes that customers have access to other sources of information concerning competitive electric supply alternatives.

UGIES believes that the market today does a sufficient job educating small business customers about the choices available to them. More specifically, EGSs have made and will continue to make significant investments to advertise, promote and market their products and services to these customers. As price and product offerings change, suppliers will communicate up-to-date information to these customers in an effort to win their business. The current listing of suppliers on the PaPowerSwitch.com serves as an important market information tool in that a customer can confirm whether the supplier is authorized by the Commission to make an offering. If a customer were to visit the posted prices on the website but were to see a different or potentially stale pricing information than that received through the supplier's marketing efforts, or the customer does not see on the website the product offering it received through the supplier's marketing efforts, it could cause customer confusion or suspicion as to the legitimacy of the offer and potentially undermine customer confidence in selecting the EGS.

Accordingly, UGIES believes that the current combination of market forces plus the Commission's listing of competitive suppliers currently offering service in the customer's EDC service territory remains the appropriate method for communicating the choices available to small business customers.

B. Acceleration of Supplier Switching Timeframes

Although UGIES did not submit comments to the Commission's Interim Guidelines issued on November 14, 2011 in Docket No. M-2011-2270442, UGIES supports the Commission's efforts to revise the current switching rules to improve the efficient transfer of customers from default service to competitive supply service.

C. Customer Referral Programs

In the Tentative Order, the Commission tentatively concluded that two types of customer referral programs - the “New/Moving Customer Referral Program” and the “Standard Offer Program” – will benefit the retail electricity market. The New/Moving Customer Referral Program would be applicable to residential and small business customers and be used for new and moving customers as well as existing default service customers that contact utility call centers for any non-emergency reason, at which time the call center representative would share information about competitive alternatives to default service, including information about the PAPowerSwitch.com website, and would utilize a “hot transfer” to promptly connect customers from EDC call centers to an EGS of the customer’s choice to facilitate enrollment. The Standard Offer Program, in contrast, would be available to residential customers only. During the customer contact the EDC call center representative would inform the customer of a standard introductory discount offer provided by participating EGSs, potentially resulting in assignment of the customer to an EGS of their choice or random assignment of the customer to a participating EGS.

1. New/Moving Customer Referral Program – Residential and Small Business Customers

As stated in its November 3, 2011 comments, UGIES supports enhancing the EDCs’ customer representatives’ interaction with customers regarding electric choice. Since the New/Moving Customer Referral Program is intended only to share general information about competitive alternatives to default service, including information about the PAPowerSwitch.com website, UGIES supports the New/Moving Customer Referral Program as an appropriate program to help increase customer knowledge about the options available to them. More specifically, UGIES supports the applicability of the New/Moving Customer Referral Program to

residential and small business customers during non-emergency customer contacts and the use of the “hot transfer” to facilitate switches. UGIES offers the following comments, however, with respect to certain issues.

First, with respect to this program’s applicability to small business customers, UGIES supports the definition proposed in the IWP – *i.e.*, the smallest general service business rate class in EDC’s tariff – but only in the context of this program.² UGIES recognizes that there may be administrative efficiencies to be gained by utilizing this definition in this program that outweighs potential costs or harm, if any, to the market. In other words, given that this program is intended only to share general information about competitive alternatives to default service, including information about the PAPowerSwitch.com website, but not to actually assign a customer to a standard offering, UGIES does not see the harm to customers or suppliers that could result.

Next, UGIES’ support of this program depends on the referral script being drafted in such a way that ensures that the information shared with consumers about choice and competition is neutral and does not place the EDC in the compromising role of referring one supplier over another or one product offering over another. Accordingly, UGIES recommends that there be Commission oversight to ensure the non-discriminatory implementation of this program. An administratively efficient way of doing this is to require all referral calls, upon customer’s consent, be subject to a third-party verification recording (similar to how most EGSs subject their telemarketing calls, with customers’ consent, to third-party verification recordings) and that such recordings be made available to EGSs upon request. Also, EGSs should be given the ability

² UGIES would not support the use of this definition for “small business customer” in the context of the Standard Offer Customer Referral Program or the Retail Opt-In Auction Program as UGIES believes that the potential harm to the market would outweigh any potential administrative efficiency gained from its use. In the Tentative Order, however, the Commission tentatively concluded that the Standard Offer Customer Referral Program and the Retail Opt-In Auction should apply only to residential customers.

to file a complaint with the Commission in the event an EDC implements the program in such a way that unfairly favors its affiliate or results in discrimination of certain suppliers.

Third, with respect to the “hot transfer,” the Commission proposes that it be used only when the customer is prepared to exercise the option to switch. This criterion for making the “hot transfer” is crucial, yet it is not clear in the IWP how the EDC representative will determine when the customer is prepared to “exercise the option to switch.” It should be when the customer voluntarily provides the specific name of the EGS, without any prompting, soliciting or other help from the call center representative.

Finally, with respect to call center logistics and associated cost recovery, UGIES supports the use of the EDCs’ existing call centers in the interest of controlling costs and simplifying the administration of the referral program. The other call center approaches would likely complicate the administrative process and potentially serve to increase costs. Furthermore, given that the purpose of this program is to provide general information relating to choice and competition, and that no one supplier will benefit from its participation in this program over another non-participating supplier, the costs of administering the program should be recovered through a Retail Markets Surcharge, collected on the EDC bill, which should be non-bypassable and applicable to all residential and small commercial customers. How these costs will be determined needs to be further explored to ensure that the principle of cost causation is followed and only those costs involved with this program (which will likely involve some marginal percentage of the time spent by existing call center employees as well as potential software development or purchases to implement the “hot transfer”) are recovered through the Retail Markets Surcharge.

2. Standard Offer Customer Referral Program – Residential Customers Only

For the reasons stated in its November 3, 2011 comments, UGIES disfavors the Standard Offer Customer Referral Program on the basis that it potentially creates new market barriers through administrative design that could negatively impact the future of Pennsylvania’s electric retail market.³ Notwithstanding the foregoing, UGIES fully supports the Commission’s tentative conclusion that the Standard Offer Customer Referral Program should be applicable to residential customers only, and not to small business customers. Generation rate caps have only recently expired in the major EDC service territories in 2009 and 2010, and yet Pennsylvania’s retail electricity market is steadily maturing as measured by a growing number of customers shopping, the increased number of EGSs actively marketing to consumers and the expanding variety of innovative and value-added product offerings being made available to consumers. As the Commission recognized in the Tentative Order, shopping statistics demonstrate that shopping levels among residential customers are substantially less than those for commercial customers⁴ and, as a result, commercial customers do not require the same type of market enhancements as residential customers.

Despite the fact that UGIES generally disfavors this type of customer referral program, it offers the following comments with respect to certain issues. First, UGIES is concerned that

³ Under this proposal, the EDCs will effectively be stepping into the shoes of EGSs to market choice and products on their behalf. As stated in the November 3, 2011 comments, UGIES believes an EDC should not encourage one type of product offering (*i.e.*, a standard price discount from the PTC) over another or one EGS (*i.e.*, even if that EGS is picked through random assignment) over another, but should be in the neutral role of providing information regarding choice so the customer can make the best decision according to the customer’s needs or desires. It seems that placing the EDC in this role could serve to complicate what should be a simple message of choice, as customers who participate in this referral program may come to the wrong belief that their decision to switch from their local utility is a safe or beneficial one only when the EDC refers the product offering or supplier. It is not entirely clear how one can simply “script around” this perception.

⁴ See *e.g.*, the Commission’s “Weekly PA Power Switch Update, Customers Switching to an Electric Generation Supplier, dated January 11, 2012” showing that 61.9% of commercial load is shopping while only 26.8% of residential load is shopping.

many of the details of this program require further discussion and consideration before such a program is implemented. Specifically, the issue of how the random assignment will be implemented has not been sufficiently discussed to make sure the rules are clearly spelled out for all involved. The “random assignment” should be structured and implemented in such a way to ensure fair treatment of all participating suppliers. Additionally, similar to its proposal for the New/Moving Customer Referral Program, UGIES recommends that there be Commission oversight to ensure the non-discriminatory implementation of this program. One way of doing this is to require all referral calls, upon customer’s consent, be subject to a third-party verification recording (similar to how most EGSs subject their telemarketing calls, with customers’ consent, to third-party verification recordings) and that such recordings be made available to EGSs upon request. Also, EGSs should be given the ability to file a complaint with the Commission in the event an EDC implements the program in such a way that unfairly favors its affiliate or results in discrimination of certain suppliers.

Next, with respect to call center logistics and associated cost recovery, UGIES again supports the use of the EDCs’ existing call centers in the interest of controlling costs and simplifying the administration of the referral program. However, unlike the New/Moving Customer Referral Program, which provides consumers with information on the availability of competitive alternatives generally, UGIES believes that the costs of administering this program should be recovered from those suppliers that participate in the program and directly benefit from customer referrals. By participating in this program, an EGS is effectively expanding or perhaps supplanting certain marketing efforts. If all customers or if non-participating suppliers had to pay for such a program, it raises the question of how this will impact existing and future investments made by non-participating EGSs to advertise, promote and market their products

and services to these customer classes. Marketers that have already invested in marketing resources and programs will be disadvantaged by this proposal as it will attract new entrants that can shortcut the customer acquisition process with this new set of rules. As noted in the November 3, 2011 comments, UGIES believes the standard offer structure has the potential of narrowing the pool of participating suppliers to the already dominating players.⁵ Non-participating EGSs and customers in general should not have to bear the cost burdens of these “winners” under these new administrative rules.

Finally, UGIES would note that customers should only be eligible to participate in the Standard Offer Program on a “one-time” basis as the intent of this program is to introduce customers to shopping, not to provide them with a method for obtaining on-going percent-off discounts.

D. Retail Opt-In Auctions – Residential Customers Only

In its November 3, 2011 comments, UGIES asserted that the implementation of a retail opt-in auction may be premature at this time and cautioned the use of an administrative method to pick winners and losers in the market, instead of allowing the market to do that itself.⁶ Nevertheless, given the Commission’s desire to move forward with retail opt-in auctions, UGIES

⁵ UGIES finds concerning the idea that the introductory offers will be administratively-determined and standardized with no adjustment to reflect current market conditions. If the standard offer is set at x% off the price to compare, for example, it is very possible that many EGSs could drop out of the program if they are not be able to match the standard offer under existing market conditions. The only EGSs left competing for these customers in the referral program will likely be the already dominating players. The resulting effect is that the retail opt-in auction would serve as an administrative method for picking winners and losers in this market segment, which over time could have the consequence of narrowing the pool of competing suppliers and thus reducing the benefits of competition to consumers.

⁶ Customers are still adjusting to the complexities of the electric marketplace and that the introduction of administrative solutions to bolster choice may interfere with the natural progression of shopping over the long run. An opt-in program may simply result in the same “status-quo” bias currently seen in EDC provided default service plans, as customers may simply stick to the EGS to which they were assigned. Standardizing product offerings runs the risk of making consumers believe that choice is based on price competition alone, which is not the case. Further, implementing an EDC-run auction may lead customers to an incorrect understanding that their decision to switch to an EGS is only safe when handled as part of an EDC administered program. Given these reasons, retail opt-in auctions may serve to pick winners and losers in the market, instead of allowing the market to do that itself.

believes that the Commission has appropriately limited customer eligibility to residential customers and should not expand the applicability to any other customer classes. With respect to customer eligibility, UGIS fully supports the Commission’s tentative conclusion that the retail opt-in auctions should apply to residential customers only. As noted, Pennsylvania’s retail electricity market is steadily maturing as measured by a growing number of customers shopping, the increased number of EGSs actively marketing to consumers and the expanding variety of innovative and value-added product offerings being made available to consumers. As the Commission recognized in the Tentative Order, shopping statistics demonstrate that shopping levels among residential customers are substantially less than those for commercial customers,⁷ and, as a result, commercial customers do not require the same type of market enhancements as residential customers.

Despite tentatively concluding that retail opt-in auctions should apply only to residential customers, the Commission did ask those stakeholders proposing the inclusion of small commercial and industrial customers in the auction to propose a definition for “small business customer” and explain the process that an EDC could use to identify eligible small commercial accounts, especially on a statewide basis. While UGIES does not believe it is appropriate, for the reasons stated above, for the retail opt-in auction to apply to any customer class other than residential customers, if the Commission were to re-consider its tentative conclusion, UGIES believes that the appropriate definition of “small commercial” customer to be applied statewide is the Commission’s definition of “small business customer” at 52 Pa. Code §54.2, which provides as follows:

a person, sole proprietorship, partnership, corporation, association or other business entity that receives electric service under a small commercial, small

⁷ See *supra* note 4.

industrial or small business rate classification, and whose maximum registered peak load was less than 25 kW within the last 12 months.⁸

This definition has long been recognized by the Commission. Even the Commission's default service regulations at 52 Pa. Code § 54.187 create three classes of customers, the smallest of which is those with a maximum registered peak load up to 25 kW.⁹

Nothing presented to date in the record of this proceeding demonstrates a substantive policy reason for reclassifying the small business customer for the purpose of implementing the market enhancements. Indeed, the initial comments submitted by many of the participants in this Investigation proceeding were careful to define small business customers as 25 kW and below when identifying and discussing issues related to this customer class.

During one of the RMI subgroup meetings in the fall 2011, Duquesne Light Company ("Duquesne Light") explained that it employs a simple process to identify small commercial customers (< 25 kW or below) by annually reviewing the maximum registered peak load for these customers in the prior 12 months. If the Commission were to re-consider its tentative conclusion to limit customer eligibility to residential only, UGIES urges the Commission to require the EDCs to adopt the method employed by Duquesne Light as a "best practice" to ensure that, for the reasons stated above, the retail opt-in auction is applied only to residential customers and small business customers up to 25 kW.

During some of the RMI calls, a few parties proposed, for the sake of administrative ease, to define the "small commercial" customer based on the general business rate schedules found in the EDC's tariff. The apparent reason for structuring customer eligibility this way was to facilitate administrative ease for EDCs in implementing the retail opt-in auctions since some of the EDCs' rate schedules span various levels of C&I maximum registered peak loads. Certainly

⁸ 52 Pa. Code §54.2.

⁹ See 52 Pa. Code § 54.187.

many EDCs' tariffs rate schedules include varying sizes of customers, potentially up to 500 kW, depending on the EDC service territory. UGIES believes that defining the "small commercial" customer by using EDC tariff rate schedules (even by using the "smallest general service business rate class" in the EDC's tariff), would be over-inclusive and would result in non-uniform standards for customer eligibility. This change is not justified by the record developed to date. In fact, it has been widely recognized by commenters and the Commission alike in this proceeding to date that shopping is already robust among large- *and* medium-sized C&I customers. Including customers above 25 kW has the potential to discriminate against EGSs who are serving or plan to serve this customer class in Pennsylvania and could have the potential to minimize the pool of eligible EGSs that compete for these customers business. The potential harm to the market would not outweigh the administrative efficiency of adopting such a definition. At this juncture, considering the amount of time and energy that the Commission, its staff and all of the parties are expending to minimize administrative barriers to competition and choice, it hardly makes sense to permit administrative convenience to determine customer eligibility, especially when it can produce the unintended consequence of narrowing the pool of EGSs that compete for these customers' business.

Finally, UGIES believes that the costs of administering this program should be recovered from those suppliers that participate in the program. By participating in the retail opt-in auction, an EGS is effectively expanding or perhaps replacing certain marketing efforts. If all customers or if non-participating suppliers had to pay for such a program, it raises the question of how this will impact existing and future investments made by non-participating EGSs to advertise, promote and market their products and services to these customer classes. Marketers that have already invested in marketing resources and programs will be disadvantaged by this proposal as

it will attract new entrants that can short cut the customer acquisition process with this new set of rules. Furthermore, the standardized product offering has the potential of narrowing the pool of participating suppliers to the already dominating players. Non-participating EGSs and customers in general should not have to bear the cost burdens of these “winners” under these new administrative rules.

E. Presentation of Default Service Price to Compare (“PTC”) on Customer Bills

The Commission proposes that the EDCs be required to place their current Price to Compare (“PTC”) on customer bills, including a statement of when the PTC will be in effect and a statement that the PTC is subject to change and with what frequency. Finally, bill space permitting, the EDCs must also include a reference to the PAMPowerSwitch.com website. UGIES also believes that if the PTC is an average for the customer’s rate class and not customer specific, this should be noted on the customer bill.

The Commission provides an example of how the utilities could present the PTC information on a customer bill. The proposed language states that the PTC “can” change quarterly. UGIES recommends that the language be modified to state that the PTC “will” change quarterly, as follows:

Your Price To Compare for your rate class is X.XXX per kWh through ___/___/___ . This ~~can~~**will** change quarterly. For more information and supplier offers visit www.PAMPowerSwitch.com. (changes indicated in bold and strikethrough).

This more accurately reflects the fact that the utility PTC is not a fixed rate and should not be expected to stay the same over time.

Additionally, UGIES asserts that the name PTC incorrectly suggests that it is the only basis for comparison that a shopping customer can utilize. Therefore, UGIES suggests changing the term on customers' bills from the "Price to Compare" to the EDC's "Default Service Rate."

II. CONCLUSION

UGIES commends the Commission for undertaking the initiative through this proceeding to examine the structure of Pennsylvania's retail electricity market and to explore ways to enhance competition and customer choice so that consumers in this Commonwealth may continue to realize the benefits of competitive retail markets. UGIES appreciates the opportunity to submit these comments for the Commission's review and consideration.

Respectfully submitted,



Melanie J. Elatieh (Attorney ID No. 209323)
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
Tel: 610-992-3750
Fax: 610-992-3258
E-mail: elatiehm@ugicorp.com

Counsel for UGI Energy Services, Inc.

RECEIVED
JAN 17 2012
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dated: January 17, 2012

From: (610) 992-3209
 Melanie Elatiah
 UGI Corporation
 460 N. Gulph Road

Origin ID: KPDA



King of Prussia, PA 19406

Ship Date: 17JAN12
 ActWgt: 1.0 LB
 CAD: 100325250/NET3210

Delivery Address Bar Code



SHIP TO: (717) 783-1740

BILL SENDER

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Comm.
400 NORTH ST
COMMONWEALTH KEYSTONE BUILDING
HARRISBURG, PA 17120

Ref #
 Invoice #
 PO #
 Dept #

WED - 18 JAN A1
 STANDARD OVERNIGHT

TRK# 7979 5628 4074

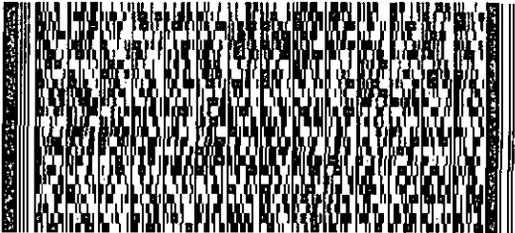
0201

ZN MDTA

17120

PA-US

MDT



50FG2/A78E/F5F4

After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.