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October 29, 2012

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

**RE: COMMENTS of THE ENERGY ASSOCIATION of PENNSYLVANIA
TO THE COMMISSION'S INTERIM GUIDELINES
FOR NATURAL GAS DISTRIBUTION COMPANY
ELIGIBLE CUSTOMER LISTS
(Tentative Order at Docket No. M-2012-2324075)**

Dear Secretary Chiavetta:

Enclosed for filing please the Energy Association of Pennsylvania's Comments filed in the above-referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donna M. J. Clark".

Donna M. J. Clark
Vice President and General Counsel

CC: Robert F. Powelson, Chairman
John F. Coleman, Vice Chairman
Pamela A. Witmer, Commissioner
Wayne E. Gardner, Commissioner
James H. Cawley, Commissioner
Lawrence Barth (lbarth@pa.gov)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Interim Guidelines for :
Natural Gas Distribution Company : Docket No. M-2012-2324075
Eligible Customer Lists :

**COMMENTS
OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO THE INTERIM GUIDELINES
TENTATIVE ORDER**

Introduction

In conjunction with the ongoing development of the Commonwealth’s natural gas retail market, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) upon its own motion issued a Tentative Order on September 27, 2012, proposing interim guidelines for the provision of Eligible Customer Lists (“ECL”) by National Gas Distribution Companies (“NGDC”) to Natural Gas Suppliers (“NGS”).

Issuance of the Tentative Order occurred in connection with the denial of a Petition for Declaratory Order¹ (“Petition”) filed by Dominion Retail, Inc., Interstate Gas Supply, Inc., and Shipley Choice, LLC (“petitioners”). While the Petition named specific NGDCs, the petitioners sought a declaratory order stating that all Pennsylvania NGDCs were under a continuing obligation to “provide complete customer lists to NGSs operating in their service territories without the

¹ Docket No. P-2012-2291983

imposition of fees on the NGSs”. Tentative Order at p. 2. The Commission dismissed the Petition concluding that neither the existing regulation at 52 Pa. Code § 62.78 nor the resolution of a 2000 proceeding required the continued provision of customer lists at no cost to the NGS.

The Tentative Order issued concurrently on September 27 seeks comments on proposed guidelines which in many respects mirror the guidelines issued in connection with the Eligible Customer Lists provided by electric distribution companies to electric generation suppliers. The Energy Association of Pennsylvania (“EAP” or “Association”) welcomes the opportunity to submit the following comments and concerns to the Tentative Order on behalf of the identified natural gas distribution company members.²

Comments

A. Proposed Interim Guidelines are Non-Binding.

EAP underscores the language in the Tentative Order at page 1 which emphasizes that the Commission is issuing Interim Guidelines intended to “provide guidance” to the NGDCs and NGSs, similar to its earlier actions in the retail electric market. The Tentative Order proposes Interim Guidelines which are non-binding and advisory in nature. Through these interim guidelines, the Commission seeks to specifically identify its expectations and the desired outcome while affording flexibility in the method by which the outcome, if adopted, is accomplished.

For example, EAP believes that NGDCs may exercise discretion in setting the timeframes and methods for soliciting its customers as part of the ECL process. Thus, while the interim guidelines proposed an initial solicitation of customers within 90 days of the final order

² Columbia Gas of PA, Inc.; Equitable Gas Company, LLC; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company; Peoples TWP, LLC; Philadelphia Gas Works; UGI Utilities, Inc.; UGI Penn Natural Gas, Inc.; UGI Central Penn Gas, Inc.; and, Valley Energy, Inc.

if customers have not been solicited within the prior 12 months, some NGDCs may need a longer period of time to make the initial solicitation. System changes and customer communications require significant advance planning, programing, testing, and coordination of IT and staffing schedules to avoid conflicts with other jobs and system interruptions. At least one of EAP's member companies estimates that it may need a year to effectuate the initial customer opt-out solicitation. Guidelines provide that flexibility while also indicating for the regulated community the preferences of the Commission.

The guidelines further anticipate that each NGDC will exercise discretion in determining the manner of annual solicitation. As noted on page 4 of the Tentative Order, the Commission advises that ongoing activities, i.e. bill inserts, emails or notices in the bill, may be used in lieu of a separate mailing. With respect to the recommendation to re-solicit the entire customer base every three years regarding the decision to opt-out, NGDCs understandably may exercise discretion regarding customers who have recently made an affirmative decision to share information with NGSs and not repeatedly re-solicit within a short time-frame and/or may decide to forego this separate solicitation based on cost concerns, other frequent customer communications regarding CHOICE or market saturation. Again, guidelines provide the utilities discretion and flexibility.

EAP and its member NGDCs understand the Commission expectation to provide ECLs to NGSs containing the ten identified data points and to do so according to the general principles set out in the Electric ECL Order. Tentative Order at page 3. NGDCs appreciate the discretionary nature of guidelines and will proceed within a reasonable time-frame and in a cost-effective manner. Recognizing that companies may develop different schedules, EAP suggests

that each of its members will provide the Commission an estimated schedule within 60 days of the issuance of a final order at this docket.

B. Timely Cost Recovery.

The Commission's Tentative Order (page 5) recognizes the costs (preparatory and ongoing operational costs) to NGDCs associated with the customer solicitation process and suggests that cost recovery be handled through base rates. Such costs will include not only the work needed to determine whether customers will opt-out of the ECL or withhold specific information but will necessarily include any customer education efforts voluntarily undertaken by the utility.

While this method may be preferred by some utilities, EAP raises concern about the timeliness of recovering costs through a base rate case and respectfully requests that the Commission refrain from designating this as the only method of cost recovery. EAP believes that cost recovery should occur on a full and current basis and a utility should not be required to carry the costs until such time as it may file its next base rate case. EAP requests that the Commission remain flexible regarding the manner in which NGDCs may seek cost recovery. EAP anticipates that its NGDC members may seek cost recovery through an alternative regulatory process or in conjunction with legislation currently being discussed with suppliers, the Commission and the legislature.

Conclusion

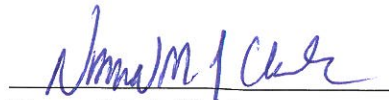
EAP appreciates that the issuance of guidelines will encourage the creation of eligible customer lists for use by natural gas suppliers. EAP believes that NGDCs will exercise

appropriate discretion to solicit customers regarding opt-out provisions and will do so in a timely and cost-effective manner.

Respectfully submitted,



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