COMMONWEALTH OF PENNSYLVANIA

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December 12, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: Investigation of Pennsylvania's Retail Natural Gas Supply Market
Docket No. I-2013-2381742

Dear Secretary Chiavetta:

Enclosed for filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

If you have any questions, please feel free to contact me at the number listed above.

Respectfully Submitted,

Darryl A. Lawrence
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Enclosure
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation of Pennsylvania's Retail Natural Gas Supply Market	: :	Docket No. I-2013-2381742

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: December 12, 2013
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TABLE OF CONTENTS

I. INTRODUCTION

On September 12, 2013, the Pennsylvania Public Utility Commission (Commission) entered an Order initiating an Investigation of Pennsylvania's Retail Natural Gas Supply Market. September 12 Order, Docket No. I-2013-2381742 (Order Entered on Sept. 12, 2013). The Commission initiated this Investigation to assess the current state of retail natural gas competition and to identify certain steps that the Commission should consider taking in order to help promote the development of competition in the retail markets for natural gas supply in the Commonwealth. This Investigation is an outgrowth of the SEARCH proceeding that concluded in September, 2008. See September 12 Order at p. 2; See also, Investigation into the Natural Gas Supply Market; Report on Stakeholders' Working Group (SEARCH); Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market, Docket No. I-00040103 (Final Order and Action Plan Entered on September 11, 2008) (SEARCH Order). As the September 12 Order provides, the Commission has determined to initiate this inquiry at this time to further assess whether additional steps should be taken in order to provide greater opportunities for customers through an increased level of retail natural gas market competition. September 12 Order at 2.

Pursuant to the intent of this Investigation, the September 12 Order provides a list of directed questions that the Commission is seeking input on, as follows:

> 1. What is the current status of retail natural gas competition for customers, by class and by service territory, and for NGSs? For each such customer class and service territory, how accessible are competitive suppliers?
> 2. Are currently effective NGDC rates properly structured to reflect the separation between the costs of the NGDC's role as a distribution utility and its role as a Supplier of Last Resort (SOLR)?

3. Does the existing market design of NGDCs serving as the SOLR present barriers that inhibit customer choice or prevent suppliers from fully participating in the retail market?

4. Should NGDCs continue in the role of SOLR?

5. Are there enhancements and updates to the current SOLR model that would further improve the state of competition within the retail natural gas market?

a. Are there opportunities through the potential restructuring of the SOLR model and retail gas market to encourage expansion of natural gas distribution facilities into areas of the Commonwealth that do not currently have access to natural gas facilities?

b. Are there changes to the retail natural gas market that the Commission can undertake de novo through regulation or policy that would promote retail natural gas competition?

c. Are there changes to the retail natural gas market that the Commission can undertake de novo through regulation or policy that would remove barriers to retail natural gas competition?

d. What legislative changes should be made to further improve the retail natural gas market in Pennsylvania?

6. Are there outcomes from the Commission's recently completed electric RMI that would be applicable and useful to implement in the retail gas market? To the extent possible, please provide comments on the following topics:

a. Seamless Move

b. Accelerated Switching Timeframes

c. Standard Offer Program

d. Low-income customer shopping

e. Expanded Consumer Education about shopping

f. Any additional RMI initiative that would translate well to the retail natural gas market.

> 7. To take advantage of the opportunity that is present through the Marcellus Shale resource, should NGDCs and NGSs be encouraged to explore opportunities with natural gas exploration and production companies?
>
> 8. Recognizing that the Commission withdrew the proposed rulemaking addressing NGDC business practices at Docket No. L-2009-2069117 and committed to commencing a new proposed rulemaking on these issues, please provide comments on the continued need to address standardized supplier tariffs and business practices with regard to imbalance trading, tolerance bands, cash out and penalties, nominations and capacity.

September 12 Order at 3-4. Once the Commission has received the solicited responses, this Investigation will proceed in the same manner as the recently completed investigation of the retail electricity markets (RMI). Phase One will seek to assess the current status of competition and to identify potential changes to the current market in order to benefit customers. Phase Two, headed by the Office of Competitive Market Oversight (OCMO), will seek to evaluate the current challenges in the retail gas market and how to implement prudent changes in order to improve the level of opportunities for natural gas customers. September 12 Order at 3.

The OCA welcomes this opportunity to provide comments and to participate in this Investigation. In Section II of these Comments, the OCA will respond to the directed questions posed in the September 12 Order, provide some additional thoughts as to the current state of the natural gas market in Pennsylvania and discuss other relevant evidence that the Commission may wish to consider as this Investigation continues. In this introductory part of its Comments, the OCA will provide some initial discussion on certain issues raised in the directed questions that are of particular importance to the OCA. The OCA appreciates the Commission's intention to provide greater opportunities for customers to participate in the retail natural gas markets, and looks forward to participating in this investigatory process.

A. The Current State of Gas Choice for Residential Customers.

The OCA publishes a Natural Gas Shopping Guide that is updated monthly and provides current natural gas supplier (NGS) offers in each of the major natural gas distribution companies (NGDCs) service territories for residential customers. Also included on the OCA's web site is the Natural Gas Shopping Statistics, updated quarterly, which provides the number of residential customers currently receiving natural gas service from an NGS.[1] As of the most recent update from October, 2013, approximately 12% of residential customers statewide are receiving natural gas service from an NGS. Based on the current numbers, the OCA appreciates the Commission's stated concerns that more work likely remains in order to promote increased NGS and customer participation in the competitive retail natural gas markets.

These raw numbers, however, cannot adequately explain or illustrate the current state of the retail natural gas market for residential customers. As an initial matter, it is important to recognize that natural gas as a commodity and the natural gas retail markets are quite different from their electric counterparts. For one, the current residential market for natural gas is much smaller than the residential electric market. According to the Commission's web site, there are currently 4,980,186 electric customers[2] and 2,643,000 natural gas customers[3] in Pennsylvania.

In addition to the much smaller size of the retail gas market, the ability to compete for customers based on product differentiation is possible for electric generation suppliers (EGSs) as electric can be marketed as green, renewable, produced from wind, solar, hydro and multiple

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1 The OCA's Natural Gas Shopping Statistics are available at: http://www.oca.state.pa.us/Industry/Natural_Gas/gasstats/GasStats.htm

2 Available at: http://extranet.papowerswitch.com/stats/PAPowerSwitch-Stats.pdf

3 Available at: http://www.puc.state.pa.us/NaturalGas/pdf/GasSwitch/GasSwitch_ShoppingNumbers_103113.pdf

combinations thereof. NGSs, conversely, are constrained in the use of this marketing tool as gas molecules are pretty much gas molecules. The timing of marketing activities for natural gas also creates some challenges for NGSs. Electric customers, in the main, see some level of uniformity in their bills throughout the year. Of course there are peak usage periods, but it is reasonable to assume that EGSs can capture an electric customer's attention throughout the calendar year. Natural gas customers on the other hand, have decided peak periods of usage and corresponding higher bills that typically occur during the heating season. As such, year-round marketing and educational activities may draw little interest from natural gas customers.

Another important fact to recognize is that in this current low cost, relatively stable period of natural gas prices, the potential for savings are limited. Our regulated natural gas distribution companies are purchasing natural gas for their customers in the same competitive markets as NGSs at the least cost, with no profit or markup. It should come as no surprise that unregulated marketers would find it difficult to produce substantial savings that may provide an incentive for a customer to switch to an alternative supplier. The unregulated marketers are operating in the same large, mature natural gas markets in which the utilities are buying their gas and the opportunity to provide substantial savings to customers may not exist under current market conditions.

Moreover, the natural gas market is experiencing some significant changes over the last several years. In the not-too-distant past, it was common for Pennsylvania NGDCs to purchase lower-priced gas during the summer in order to fill storage facilities for later use during the heating season when gas prices were sure to rise. Much of the gas purchased at that time was coming from the Gulf of Mexico and other distant production areas. Today, with the increased production of Marcellus Shale, the increase in natural gas generation facilities, and the overall increased liquidity of the local natural gas supply markets the divergence between summer and winter pricing has been reduced. Accordingly, the ability for an NGS to take advantage of these price swings in order to provide attractive offers to customers has changed.

Based on the OCA's review of information in other states with retail natural gas choice, it appears that many of these circumstances have made it difficult for customers to benefit from the retail natural gas market on a sustained basis. For example, a particularly relevant and helpful review of gas choice programs across several states was recently completed by the National Regulatory Research Institute (NRRI).[4] The NRRI research report, titled "Gas Choice: Do Residential Customers Benefit" (NRRI Report), is available in its entirety on the NRRI web site.[5]

From the NRRI Report's Executive Summary:

> Based on the evidence from several jurisdictions, we are not prepared to say that gas choice for small customers cannot work in their favor. Indeed, for limited periods of time, many customers have surely benefited by switching to a marketer. The evidence suggests, however, that many customers who switched were worse off over the longer term.

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4 From the NRRI web site:

> NRRI was founded in 1976 by the National Association of Regulatory Utility Commissioners (NARUC). While corporately independent, NARUC and NRRI are linked in multiple ways to ensure accountability. NRRI's formation and its dues structure were approved by NARUC's Board of Directors. NRRI's bylaws were approved by the NARUC Board's Executive Committee. State commissioners constitute a majority of NRRI's Board. NARUC's Executive Committee receives regular reports on NRRI from its Second Vice President, who is an ex officio member of NRRI's Board. The NARUC Board's Education and Research Subcommittee evaluates NRRI's performance and makes recommendations to the Board of Directors. NARUC's Executive Director is an ex officio member of the NRRI Board and NARUC's Chief Financial Officer is an ex officio member of the audit committee of NRRI's Board.
>
> NRRI serves as a research instrument to its dues payers. NARUC, as the association of all state regulators, is invested in quality research serving its members. NRRI will coordinate its activities to support NARUC's policy, research, educational and member-support service to state commissions.

Available at:
http://www.nrri.org/web/guest

5 Available at:
http://www.nrri.org/pubs/gas/NRRI_Gas_Choice_July11-14.pdf

NRRI Report at iii. The following is a sample of some of the paper's additional findings:

> Illinois Citizens Utility Board
>
> This state consumer advocate has developed what it calls a Gas Market Monitor. As described on its website, the Gas Market Monitor —provides a monthly snapshot of how hundreds of plans have fared since 2003. Its analysis has shown that most plans since 2003 have resulted in higher gas bills for Illinois residential customers of marketers. As of June 3, 2011, the vast majority of plans—91 percent—fall into this category. The average per-customer loss across plans since 2003 was almost $647, or more than $80 per year.

NRRI Report at 3 (footnotes omitted). The NRRI Report goes on to clarify that the experience in Illinois and the numbers cited in the quote reflect a direct comparison of the price differential between what natural gas customers paid to marketers and what those customers would have paid had they stayed with their local gas utility.

As the facts from Illinois indicate, residential customers participating in the retail natural gas market are not necessarily always better off. Findings from a recent Kentucky Public Service Commission proceeding also indicate that customers participating in a customer choice program, as a whole, did not benefit from the experience. The NRRI Report provides that:

> Evidence on customer benefits for the only existing gas choice program in the state showed that:
>
> The Customer Choice program collectively saved $11.4 million during the first five years of the program. But in the last five years, during a period of extreme price volatility in natural gas markets, *customers in the program collectively paid $28.7 million more than they would have had they purchased gas from Columbia [Gas of Kentucky] instead of a marketer.*

NRRI Report at 4 (emphasis in original, footnotes omitted); See also the Commission Order for Case No. 2010-00146 and the report titled <u>An Investigation of Natural Gas Retail Competition Programs</u>, available at: <u>http://psc.ky.gov/PSCSCF/2010%20cases/2010-00146/20101228_PSC_ORDER.pdf</u>.

For the purpose of these Comments, the OCA also performed a rudimentary analysis to see how a Pennsylvania customer might have fared over the last year if the customer had switched to an alternative supplier. The OCA utilized the lowest fixed price offer listed in the OCA's October, 2012 Shopping Guide and then compared the fixed price offer to the NGDC's Price to Compare for the next 12 months.[6] The results of this review indicated that in two service territories, NFGD and PECO, savings would have been achieved in the 12 month period from October 2012 to September 2013. For NFGD, the sample customer's total commodity cost would have been reduced from $592.64 to $560.00 from the alternative supplier. For PECO, the sample customer's total commodity cost would have been reduced from $523.14 to $500.00 from the alternative supplier. In the remaining service territories, however, the OCA's review indicated that the sample customer's total commodity cost for the 12 month period would have increased by $36.22 in Columbia's service territory, by $62.84 in UGI PNG's service territory and by $167.95 in Equitable's service territory.[7] Further information on these results is provided in Appendix A to these Comments.

The OCA submits that the NRRI Report and other sources of factual information relating to the operation of the retail natural gas markets in Pennsylvania and other choice states should be considered by the Commission as this Investigation proceeds.

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6 The analysis was based on a typical monthly usage pattern of a Residential customer using 100 Mcf annually. The OCA winter-weighted the analysis based on the total actual monthly supply sales to residential customers for each month of the twelve-months included in the analysis. To simplify the analysis, no migration rider costs were considered.

7 The OCA acknowledges that this review covered a limited period of time, but the information is instructive. To the extent that further information of actual customer experiences can be developed by the NGDCs, or through multi-year reviews of price offers, the OCA submits that such information should be gathered as part of this Investigation.

B. Opportunities for Improvements.

While the experience in both Pennsylvania and other states counsels some caution in these efforts, the OCA submits that some opportunities for improvement remain. It should be recognized, however, that much work has already been done to remove any potential barriers to NGSs and customers fully participating in the retail natural gas supply market. The Commission has undertaken rulemakings concerning NGDC cost recovery, NGS licensing, ordered reforms to customer bills to present the Price to Compare, required the NGDCs to implement Purchase of Receivables programs to allow the utility to bill and collect for NGS charges and has improved its gas shopping website.

More recently, the Commission issued a Revised Final Rulemaking Order (Unbundling Order), which had as its primary goal the creation of a level playing field for all natural gas suppliers operating in Pennsylvania.[8] The Commission's Unbundling Order sought to restructure rates to reflect the separation of costs of the NGDC's role as a distribution utility and SOLR. As a result of the Unbundling Order, all of the major NGDCs submitted filings to implement the directives contained therein, including the creation of a gas procurement charge (GPC).[9] These unbundling proceedings have only recently been concluded, many within the last several months.

Another recent action by the Commission was the adoption of interim guidelines for eligible customer lists (ECL) maintained by the NGDCs.[10] The natural gas ECL interim

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8 Natural Gas Distribution Companies and Promotion of Competitive Retail Markets, Revised Final Rulemaking Order, Docket No. L-2008-2069114 (Order entered June 23, 2011) (Unbundling Order).

9 Costs to be removed from base rates and reflected in the GPC include the following items: a) Natural gas supply service management and acquisition costs, including natural gas supply bidding, contracting, hedging, credit, risk management costs, and working capital; and b) Administrative, legal, regulatory, and general expenses related to those natural gas procurement activities, excluding those related to the administration of firm storage and transportation capacity.

10 Interim Guidelines For Natural Gas Distribution Company Eligible Customer Lists, Docket No. M-2012-2324075, Final Order entered August 15, 2013 (NGDC ECL Order).

guidelines will provide NGSs with important customer information so that the NGSs can more readily identify potential retail customers, and can better tailor products and service offerings to meet their customers' needs. Similar to the unbundling proceedings, however, the ECL guidelines have only been in effect for a few months.

As to additional initiatives, the OCA recognizes the successful efforts of the Commission and the electric distribution companies (EDCs) in the widespread dissemination of information to consumers as to shopping for an alternative electric generation supplier. The OCA submits that similar, well-timed activities should be pursued in order to ensure that natural gas customers have clear, relevant and accurate information as to their ability to shop for natural gas commodity service. As further discussed in these Comments, however, all stakeholders should recognize that the natural gas market is markedly different in scope and characteristics of market timing as compared with the retail electric market. In the OCA's view, increased educational initiatives will need to be tailored to the unique qualities of the retail natural gas markets.

One area that may be congruent across both the electric and natural gas markets is the need for a clear, concise and understandable price-to-compare (PTC). In preparation for these Comments, the OCA has reviewed sample natural gas customer bills and submits that some additional work may be necessary in order to ensure that customers can make a clear apples-to-apples comparison when reviewing the PTC and NGS' offers. As to the need for a simple, easy to understand and calculate PTC, the current legislative effort to do away with the Migration Rider is a good step in the right direction.[11] The Migration Rider adds further difficulty in trying to make accurate apples-to-apples comparisons between the PTC and offers from an NGS.

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11 H.B. 1188, 2013 Gen. Assem., Reg. Sess. (Pa. 2013) (HB 1188).

Another area where concerns over the PTC could be similar across the electric and gas markets is the frequency with which the PTC for natural gas changes, currently, every three months.

The OCA submits that it is potentially problematic for residential customers to compare offers from NGSs when the underlying PTC that they are comparing against changes every three months. A PTC that would only change every six months could enable customers to make better decisions when weighing offers from NGSs and provide consumers with a greater level of certainty that they have made a good decision. In the OCA's view, the Commission should consider gathering additional information from the NGDCs as to the feasibility of such changes.

Alternatively, if quarterly price changes remain in effect then it may be useful for customers if additional pricing information was supplied. It could be advantageous and useful for customers to also include the most recent one-year weighted average price-to-compare (i.e., current quarter averaged with the previous three quarters on a usage weighted basis) along with the current PTC. It may also be helpful to provide customers with information on the next quarter's PTC, as is done by the electric default service providers. The current PTC by itself, especially during times of market swings, may be misleading. Customers could benefit by having the NGDC provide additional pricing measures.

The OCA would also submit that, notwithstanding the discussions herein as to the challenges for NGSs to compete on price alone, other opportunities could exist for NGSs to further penetrate the retail market. NGSs may be able to offer package deals where electric and natural gas services are bundled. NGSs may also be able to provide additional product offerings not available from NGDCs, such as whole house energy solutions and other offerings in order to compete more on product diversity grounds.

In addition, the OCA is not opposed to the removal of any remaining barriers that unnecessarily hinder the business interactions between NGDCs and NGSs. As set out in question No. 8 of the September 12 Order, the issue of creating standardized business practices for the relationships between NGDCs and NGSs was the subject of prior Commission deliberations. The OCA submits that while a complete standardization of NGDC practices across the Commonwealth may not be warranted, continued streamlining of the processes between NGDCs and NGSs, where cost effective and prudent, may enable greater participation by NGSs and spur additional offerings to natural gas customers.

As briefly discussed here, and set out in further detail below, the OCA submits that there are areas within the current structure of the retail natural gas markets that should be examined and pursued in order to provide greater opportunities for customers through an increased level of retail competition. That said, however, the OCA would urge caution in proceeding to initiate efforts to remove perceived barriers to competition, particularly efforts that will come at the expense of rate stability for customers; at the expense of appropriate ratemaking principles; and at the expense of necessary consumer protections. While the OCA acknowledges that retail choice in the natural gas industry has been slow to develop, retail switching is not an end in itself. It is only one means to the goal of ensuring that all Pennsylvania natural gas consumers receive an assured supply of natural gas at the least cost.

The intent of the Natural Gas Choice Act was to provide benefits to consumers by introducing greater competitive choice to Pennsylvania. The Act provided small natural gas users with greater direct access to the competitive natural gas market, which was already available to large gas consumers. 66 Pa.C.S. § 2204(a). Customers who do not shop though would continue to receive least cost gas supply through the purchasing practices of their NGDCs.

To the extent that a retail marketer is able to provide lower prices or other benefits, such as longer term fixed price contracts, customers could indeed benefit from such offerings. The OCA continues to support customer choice, while at the same time allowing customers to retain the ability to receive natural gas service from their NGDC pursuant to the least cost purchasing requirements of Section 1307(f) of the Public Utility Code.

C. The Potential for Expanding Natural Gas Infrastructure.

Another important topic raised in the directed questions is the future of natural gas infrastructure and the potential to expand the current natural gas systems in the Commonwealth in order to bring the benefits of this resource to currently underserved and unserved areas. As an initial matter, the OCA supports the prudent build out of natural gas infrastructure to serve customers in Pennsylvania. The OCA submits that, as discussed further in Section II of these Comments, there are new ideas and new models being put forth in the Commonwealth that could begin to accomplish this goal. The OCA looks forward to working with the General Assembly, the Commission and all stakeholders to collectively address this important issue. As an initial matter, however, the OCA submits that distribution service is a monopoly function. Accordingly, natural gas distribution infrastructure that is used to serve end use customers in the Commonwealth should be provided by a certificated Pennsylvania public utility.

D. The Supplier of Last Resort.

The OCA submits that removing the NGDC as the SOLR holds no discernible benefits for customers. Replacing the NGDC with an NGS, for example, will not create any efficiency or result in any savings for customers as all of the SOLR obligations, functions and attendant costs will remain. Pursuant to the statute, the NGDC retains the supplier of last resort (SOLR) obligation for all customers, whether shopping or not. This obligation was set forth in the 1999 Natural Gas Choice Act at Section 2207(a) of the Pennsylvania Public Utility Code which reads:

> § 2207. Obligation to serve
>
> (a) SUPPLIER OF LAST RESORT.—
>
> (1) After the effective date of this chapter, the natural gas distribution company shall serve as the supplier of last resort for residential, small commercial, small industrial and essential human needs customers and any other customer classes determined by the commission in the natural gas distribution company's restructuring proceeding until such time as the commission, pursuant to this section, approves an alternative supplier or suppliers to provide such services to any or all of the natural gas distribution company's customers.
>
> (2) For purposes of this section, a supplier of last resort is a natural gas distribution company or natural gas supplier which is designated by the commission to provide natural gas supply service with respect to one or more of the following services:
>
> (i) natural gas supply services to those customers who have not chosen an alternative natural gas supplier or who choose to be served by their supplier of last resort;
>
> (ii) natural gas supply services to those customers who are refused supply service from a natural gas supplier; or
>
> (iii) natural gas supply services to those customers whose natural gas supplier has failed to deliver its requirements.

66. Pa. C.S. § 2207(a). As our statute makes clear, the supplier of last resort obligation includes the requirement to serve returning gas customers whose suppliers have, for any reason, failed to provide them with service.

In addition, the NGDC must ensure the safe and reliable operation of its system at all times. 66 Pa.C.S. § 2205(a). Among other things, this entails ensuring that the entire system is "in balance", that is, managing differences between the deliveries of gas to its system with the usage of its customers, while maintaining efficient movement of flowing gas supplies. As further discussed in Section II of these Comments, the OCA sees no customer benefits from removing the NGDC as the SOLR. Significant costs and operational responsibilities will still lie with the NGDC, whether they continue in the merchant function or not.

E. Conclusion.

In these Comments, the OCA will respond to each of the directed questions contained in the Commission's September 12 Order. The OCA will also provide additional information on topics relevant to this Investigation of the retail natural gas supply markets for the Commission and the other stakeholders to consider as this process moves forward. The OCA looks forward to its participation in the Commission's Investigation to determine how best to educate, inform, encourage and facilitate customer choice in Pennsylvania's retail natural gas supply market for the benefit of consumers.

II. DIRECTED QUESTIONS

The Commission's September 12 Order set forth a series of questions regarding the state of the retail natural gas supply market in Pennsylvania. In the following section, the OCA will provide its response to these questions. The OCA would note that its responses are specifically addressing the current state of the market as it relates to residential customers.

Commission Question 1. *What is the current status of retail natural gas competition for customers, by class and by service territory, and for NGSs? For each such customer class and service territory, how accessible are competitive suppliers?*

OCA RESPONSE:

According to the Commission's "Monthly PA Gas Switch Update," in Pennsylvania, as of October 1, 2013, approximately 320,389 residential natural gas customers are being served by NGSs, which represents approximately 12.08% of residential natural gas customers.[12] This is a

[12] Available at: http://www.puc.state.pa.us/NaturalGas/pdf/GasSwitch/GasSwitch_ShoppingNumbers_103113.pdf

slight increase from January 2013, when approximately 301,318 or about 11.32% of residential natural gas customers purchased natural gas from NGSs[13], and a modest increase from July 2004, when approximately 186,161, or 7.3%, of residential natural gas customers were served by NGSs.[14]

Natural gas retail competition in the individual NGDC service territories has been mixed, with residential shopping rates varying significantly among the NGDCs, from 0% to 28%. The highest participation rates are in the Columbia Gas, Peoples Natural Gas, and National Fuel Gas service territories.[15] Currently, there are 20 NGSs soliciting customers in Pennsylvania, and approximately 75 offers.[16] However, in some NGDC service territories (Peoples TWP, PGW, and UGI Central Penn Gas) there are no NGSs currently soliciting residential customers. In other service territories, residential customers only have one or two NGSs from which to choose. Only residential customers of Columbia, UGI Utilities, and PECO Gas have more than four NGSs serving their service territories.

The OCA is not aware of any barriers that would prevent NGSs from being accessible to residential customers in any service territory and presumes that the lack of participation in some NGDC service territories by NGSs is a business decision based on individual business models and marketing strategies.

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13 Available at: http://www.puc.pa.gov/naturalgas/pdf/GasSwitch/GasSwitch_ShoppingNumbers_013113.pdf

14 Investigation into Competition in the Natural Gas Supply Market, Testimony of Irwin A. Popowsky of September 30, 2004, Docket I-00040103. Available at: http://www.oca.state.pa.us/Testimony/2004/Sept3004.pdf

15 Available at: http://www.puc.state.pa.us/NaturalGas/pdf/GasSwitch/GasSwitch_ShoppingNumbers_103113.pdf

16 See "PA Office of Consumer Advocate Gas Shopping Guide," available at: http://www.oca.state.pa.us/Industry/Natural_Gas/gascomp/GasShoppingGuide.pdf

Commission Question 2. *Are currently effective NGDC rates properly structured to reflect the separation between the costs of the NGDC's role as a distribution utility and its role as a supplier of last resort (SOLR)?*

OCA RESPONSE:

The currently effective NGDC rates are properly structured to reflect the separation between the costs of the NGDC's role as a distribution utility and its role as a SOLR[17], with the exception of the confusion caused by the interaction of the Migration Rider and E-Factor. However, the Migration Rider/E-Factor issue can be resolved through House Bill 1188 of 2013 (House Bill 1188 or HB 1188)[18], which the OCA supports and discusses more fully in response to Question 5(d).

As discussed herein, the Commission recently examined measures to increase competition in the provision of natural gas supply commodity service in Docket No. L-2008-2069114. That rulemaking resulted in the issuance of a Revised Final Rulemaking Order (Unbundling Order) which had as its primary goal creating a level playing field for all natural gas supply commodity service competitors, i.e., NGDCs and NGSs.[19] With that goal in mind, the Commission identified certain gas procurement costs directly associated with an NGDC's natural gas procurement function to be unbundled from distribution base rates and to be included

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17 The 1999 Natural Gas Choice Act at Section 2207(a) of the Pennsylvania Public Utility Code defines the SOLR as an NGDC or NGS which is designated by the Commission to provide natural gas supply service to: (1) those customers who have not chosen an alternative NGS or chose to be served by their SOLR; (2) those customers who are refused supply service from an NGS; or (3) those customers whose NGS has failed to deliver their requirements. 66 Pa. C.S. § 2207(a).

18 H.B. 1188, 2013 Gen. Assem., Reg. Sess. (Pa. 2013).

19 Natural Gas Distribution Companies and Promotion of Competitive Retail Markets, Revised Final Rulemaking Order, Docket No. L-2008-2069114 (Order entered June 23, 2011) (Unbundling Order).

in gas supply commodity rates and recovered through a gas procurement charge (GPC).[20] In other words, the Commission's Unbundling Order sought to restructure rates to reflect the separation of costs of the NGDC's role as a distribution utility and SOLR.

The Unbundling Order also adopted new regulations for an NGDC's price to compare (PTC), which serves as the basis of comparison between the cost of gas supply commodity service from the NGDC and that offered by an NGS. Under the Commission's new regulations, an NGDC's natural gas supply charge (C-Factor), prior period under/over collections (E-Factor), gas procurement charge (GPC), and merchant function charge (MFC) (supply-related uncollectibles) are included in the PTC. Prior to the new regulations, only an NGDC's natural gas supply charge and MFC were reflected in the PTC. Inclusion of these additional costs in the PTC provides a more accurate comparison of an NGDC's cost of providing gas supply commodity service and, therefore, benefits customers by providing a more accurate price against which to evaluate an NGS's offer.[21] These changes should permit consumers to make more educated, apples-to-apples comparisons, while promoting greater transparency and increased shopping in the competitive market.

The Commission's Unbundling Order provided for NGDCs to establish gas procurement charges and adopt the new PTC regulations through Section 1308(a) tariff filings. The Commission adopted a staggered schedule for NGDCs to submit their respective 1308(a) tariff filings, with filings made in July, September, and November 2012. Those filings were litigated

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[20] Costs to be removed from base rates and reflected in the GPC include the following items: a) Natural gas supply service management and acquisition costs, including natural gas supply bidding, contracting, hedging, credit, risk management costs, and working capital; and b) Administrative, legal, regulatory, and general expenses related to those natural gas procurement activities, excluding those related to the administration of firm storage and transportation capacity.

[21] The OCA submits, however, that the possibility of customer confusion remains as to the PTC due to the interaction of the Migration Rider and E-Factor. As discussed in these Comments, House Bill 1188 would resolve that issue.

to varying degrees during the Fall of 2012 and Spring of 2013. NGSs were parties to several of those proceedings. The tariffs implementing the changes required by the Unbundling Order became effective on the following dates:

Docket No.	NGDC	Effective Date
R-2012-2314235	UGI Utilities, Inc.	April 3, 2013
R-2012-2314247	UGI Central Penn, Inc.	April 3, 2013
R-2012-2314224	UGI North Penn, Inc.	April 3, 2013
R-2012-2285985	Peoples Natural Gas	January 25, 2013
R-2012-2327529	Peoples TWP, LLC	June 4, 2013
R-2012-2321748	Columbia Gas of Pennsylvania	July 1, 2013
R-2012-2328614	PECO Energy	December 1, 2012
R-2012-2333775	National Fuel Gas Distribution	June 1, 2013
R-2012-2333983	Equitable Gas Company	September 8, 2013
R-2012-2333993	Philadelphia Gas Works	October 1, 2013

The unbundling of SOLR costs from base rates has been in effect, collectively, for less than one year. The OCA submits that no further changes, beyond HB 1188 (which will permit more accurate, apples-to-apples price comparisons for consumers), are necessary at this time because this will be the first full winter heating season in which the Unbundling Order will affect all NGDCs. It would seem premature to make further changes without first seeing whether the Unbundling Order's changes improve the comparison needed for effective shopping decisions.

The tariffs approved as a result of the Unbundling Order were designed to level the playing field for NGDCs and NGSs by removing gas procurement function costs from base rates. In other words, gas procurement costs were removed from base rates so that an apples-to-apples comparison could be made between an NGDC's cost of providing gas supply commodity service and that of an NGS's cost of providing gas supply commodity service. As a result, currently effective NGDC base rates are properly structured—with the exception of the Migration and E-Factor issue—to reflect the separation between the costs of the NGDC's role as a distribution utility and its role as a SOLR.

As indicated above, the unbundling of SOLR costs from base rates has only been in effect for several months, and it is anticipated that this rate restructuring will aid in making a level playing field for price comparisons. As such, the OCA submits that the Commission should fully evaluate the effects of the Unbundling Order before considering further changes in this area.

Commission Question 3. *Does the existing market design of NGDCs serving as the SOLR present barriers that inhibit customer choice or prevent suppliers from fully participating in the retail market?*

OCA RESPONSE:

In the OCA's view, the NGDCs serving as the Suppliers of Last Resort (SOLR) does not create a barrier to customers who seek to shop or switch suppliers. Customers who wish to engage in the retail natural gas market are completely free to do so, as long as there is an NGS serving in their service territory, just as NGSs are completely free to market to those customers who wish to shop. Furthermore, SOLR does not provide an advantage to the NGDCs. The procurement process of the NGDCs acting as SOLR are transparent -- each NGDC must make an annual filing to determine its purchased gas cost rate, and in that filing, the company must demonstrate that it is pursuing a least cost gas procurement strategy. 66 Pa.C.S. §§1307(f), 1317, 1318. The NGDCs make no profit on the sale of the gas commodity. This policy predates the Competition Act and is specifically retained as an important consumer protection with the advent of retail natural gas competition.[22]

To the extent that the NGDC's approved natural gas supply procurement plan results in prices lower than those offered by NGSs, this is likely to impact the NGS's business decision regarding the retail market. However, this should not be considered a "barrier," and should not be a basis for eliminating the NGDC's obligation. Rather, NGSs must provide a "value added" product in the form of a different pricing methodology (fixed, variable) or bundle their natural gas service with other products or services that customers may value. If anything, the SOLR function is a more difficult service to provide because the SOLR must be ready to serve all customers coming and going from the service at any time. Also, because the NGDC must always balance its system, there is no benefit or efficiency in removing them from the SOLR role.

The OCA would submit that much work has already been done in order to streamline business practices and interactions between the NGDCs and the supplier community and to remove any unreasonable impediments to suppliers being able to fully participate in the retail markets. This is not to say that additional improvements may not be necessary or possible. Potential areas for review could include NGDC Supplier Tariff provisions, electronic data transaction protocols between NGSs and NGDCs, security deposits required by NGDCs, or other unanticipated impacts of current regulatory requirements that could or should be mitigated when cost effective. However, it will be important to determine the costs and benefits of any such redesign of business practices prior to implementation.

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22 It should be noted that the Competition Act made amendments to and reflected the existence of the natural gas procurement policies contained in Section 1307(f) throughout the legislation.

Furthermore, certain requirements associated with licensing and consumer protection policies may also impact a potential NGS entry into the market, but these policies are not barriers but necessary consumer protections.

Commission Question 4. *Should NGDCs continue in the role of SOLR?*

OCA RESPONSE:

Yes. It is the OCA's view that the NGDCs are best positioned to provide SOLR service in the most cost-effective manner. The intent of the Natural Gas Choice Act was to provide benefits to consumers by introducing greater choice to Pennsylvania consumers. The Act provided small natural gas users with greater access to the competitive natural gas market, which was already available to large gas consumers. 66 Pa.C.S. § 2204(a). The current market design of NGDCs providing SOLR service ensures reliability, safety, and quality of service while providing smaller customers with opportunities to benefit from retail choice.

SOLR service as currently structured serves two critical functions: (1) it provides a benchmark for natural gas prices, allowing customers to compare various competitive offers; and (2) it provides the Commission and other stakeholders with a benchmark to gauge if prices are just and reasonable, as required by statute. In the OCA's view, maintaining NGDCs as the SOLR is an important protection in ensuring that the prices residential natural gas customers pay are just and reasonable.

Commission Question 5. *Are there enhancements and updates to the current SOLR model that would further improve the state of competition within the retail natural gas market?*

OCA RESPONSE:

The OCA does not know of any enhancements or updates to the current SOLR model that would further improve the state of competition within the retail natural gas market. As discussed more fully above in response to Question 3, the OCA submits that the current SOLR model is not a barrier that inhibits customer choice or prevents suppliers from participating in the retail market. The OCA urges the Commission to steer away from any proposed changes to the current SOLR model that would increase costs to consumers or diminish any consumer protections.

Commission Question 5(a). *Are there opportunities through the potential restructuring of the SOLR model and retail gas market to encourage expansion of the natural gas distribution facilities into areas of the Commonwealth that do not currently have access to natural gas facilities?*

OCA RESPONSE:

The OCA does not believe that restructuring the SOLR model is necessary or appropriate to promote the extension of natural gas service to unserved or underserved areas. As discussed in the OCA's response to Question 2, the SOLR function relates to the provision of gas supply commodity service. Infrastructure needed to extend service is part of the distribution or delivery service, not the commodity service. Distribution is a monopoly function. Where economic, under the current regulatory structure, NGDCs have an incentive to extend natural gas distribution service into areas that currently do not have access to natural gas facilities, as such extensions increase an NGDC's net income. An NGDC's decision to extend its distribution facilities are governed by the NGDC's line extension policy. Distribution mains are generally a monopoly service that is undertaken by a regulated entity—in this case, the NGDC. While extending natural gas mains to unserved or underserved areas will open more market opportunities for NGS service, the two functions remain separate.

Opportunities exist for potential Commission action and/or regulatory changes to expand natural gas infrastructure throughout the Commonwealth, which would also improve the retail natural gas market in Pennsylvania. A critical first step is to revisit the economic tests that utilities are employing to determine the economics of main extensions and assure that the test and all assumptions are reasonable. This is an important first step because the outcome of these tests often presents a significant barrier to extending distribution mains to unserved areas. The OCA has worked with customers who have been asked to make up-front contributions exceeding $10,000 and $20,000 in order to obtain natural gas service.

These high levels of contributions can sometimes be driven by the assumptions used by the utility in the economic test. By way of example, the OCA has worked on cases where the utility's test analyzes the revenues received from a main extension over only a five year period to determine if the revenue provided by the customers requesting the main extension will cover all of the costs of the main extension. The main itself, however, has a thirty or forty year life and certainly the homes of customers who expend significant dollars to utilize natural gas are likely to be served by those mains for far longer than five years. Other assumptions, such as the cost to the utility of financing the main extension can also have an impact on the analysis. Using an appropriate economic test would be a definitive step in making natural gas service available to more Pennsylvania residents.

That said, it may still be uneconomic—even using an appropriate economic test—to extend natural gas service to more sparsely populated rural areas. The OCA submits that other policies, developed in conjunction with the General Assembly and all stakeholders, are needed.

Commission Question 5(b). *Are there changes to the retail natural gas market that the Commission can undertake de novo through regulatory or policy that would promote retail natural gas competition?*

OCA RESPONSE:

In recent years the Commission has undertaken a wide variety of initiatives associated with its *Report to the General Assembly on Pennsylvania's Retail Natural Gas Supply Market,* issued in October 2005. The resulting stakeholder group, SEARCH, led to a Final Order and Action Plan, issued in September 2008.[23] As a result of these reports and orders, the Commission has undertaken rulemakings concerning NGDC cost recovery, NGS licensing, ordered reforms to customer bills to present the Price to Compare, required the NGDCs to implement Purchase of Receivables programs to allow the utility to bill and collect for NGS charges, improved its gas shopping website as an important resource to shop and compare NGS offers, and undertaken targeted consumer education initiatives.

These activities may not have resulted in a significant increase in customer migration to NGSs, but that should not be the sole focus of the Commission's evaluation of the retail market. Customer awareness of the opportunity to shop as well as the number of participating NGSs and NGS' offers are also important. As discussed in the response to Question 2 above, recent efforts by the Commission to "level the playing field" between NGDCs and NGSs such as the Section 1308(a) unbundling proceedings should be given a reasonable amount of time to work prior to the Commission taking additional action in this area. Another recent action by the Commission was the adoption of interim guidelines for Eligible Customer List (ECL)[24] maintained by the NGDCs. The natural gas ECL interim guidelines will provide NGSs with important customer information that should enable the NGSs to better identify potential customers and design products and services that meet customers' needs.

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[23] See Investigation into the Natural Gas Supply Market; Report on Stakeholders' Working Group (SEARCH); Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market, Docket No, I-00040103 (Final Order and Action Plan Entered on September 11, 2008) (SEARCH Order).

[24] Interim Guidelines For Natural Gas Distribution Company Eligible Customer Lists, Docket No. M-2012-2324075, Final Order entered August 15, 2013 (NGDC ECL Order).

Commission Question 5(c). *Are there changes to the retail natural gas market that the Commission can undertake de novo through regulatory or policy that would remove barriers to retail natural gas competition?*

OCA RESPONSE:

The OCA is not aware of any new initiatives that would eliminate barriers at this time. Current low natural gas prices throughout all natural gas markets may limit consumer interest at this time as it may be difficult for NGSs to offer a level of savings that would incent the customers to switch. Additionally, shopping takes time on the consumer's part, and this has a price to the consumer. With a well-developed, mature wholesale market that everyone buys from equally, NGSs may not be able to offer a sufficient level of savings to make it worth a consumer's time and effort to shop for natural gas supply, a review that must occur every three months with the quarterly changing PTC. This situation suggests that NGSs will need to create new or innovative products or services, such as alternative pricing mechanisms (fixed and variable) and contract lengths as well as bundling other products or service with natural gas supply, to capture customer attention and interest.

Commission Question 5(d). *What legislative changes should be made to further improve the retail natural gas market in Pennsylvania?*

OCA RESPONSE:

The OCA submits that the current statutory framework is effective and the current model protects and benefits consumers and utilities, while simultaneously permitting competitive market forces to play a role in customer commodity purchases. The OCA, though, supports House Bill 1188 of 2013, which amends Title 66 of the Pennsylvania Consolidated Statutes, further providing for a sliding scale of rates and adjustments and for duties of natural gas distribution companies.

Specifically, HB 1188 makes two amendments to section 1307(f), 66 Pa. C.S. § 1307(f), that eliminate the Migration Rider and eliminate the asymmetric interest for over/under collections under this section. Of particular concern, Section 1307(f)(6) is amended to eliminate the Migration Rider, which affects those customers switching from their NGDC to an NGS and vice-versa. The OCA supports eliminating the Migration Rider, as it has caused customer confusion and eliminating it will facilitate a more accurate, apples-to-apples comparison of the PTC and NGS offers. As highlighted in the OCA response to Question 2, eliminating the Migration Rider resolves issues between it and the E-Factor (concerning prior period under/over collections) that goes into calculating the PTC. The OCA submits that the current formulation of the PTC can be confusing to consumers because of the interplay between the Migration Rider and E-Factor. The proposed language removing the Migration Rider will balance the costs included in the PTC for providing gas supply service to customers, whether through an NGDC or an NGS. This then, enables consumers to make an informed decision with accurate, reliable, and transparent information.

Legislative changes such as those described above should help to further improve the retail natural gas market in Pennsylvania.

Commission Question 6. *Are there outcomes from the Commission's recently completed electric RMI that would be applicable and useful to implement in the retail gas market? To the extent possible, please provide comments on the following topics?*

a. Seamless Move
b. Accelerated Switching Timeframes
c. Standard Offer Program
d. Low-income Customer Education about Shopping
e. Expanded Consumer Education about Shopping
f. Any additional RMI initiative that would translate well to the retail natural gas market

OCA RESPONSE:

The Commission seeks input on whether recent initiatives and programs adopted in its retail electric competition proceedings should be implemented for natural gas customers.

a. Seamless Move:

"Seamless move" is a customer's ability to physically move from one address to another, in the same service territory, and retain his or her supplier of choice. The OCA does not object to the exploration of the potential implementation of this initiative for NGDCs if cost effective. The OCA, however, urges the Commission to gather evidence of costs and impacts of such a program from the NGDCs. Any such initiative should be undertaken only upon a finding of reasonable costs. In general, ratepayers should not incur additional costs from such initiatives unless there are commensurate, identifiable benefits to consumers.

b. Accelerated Switching Timeframes:

This section addresses the time it takes a new customer to start receiving service from a new supplier. The Commission's switching regulations should be uniform for both gas and electric markets so as to allow for uniform consumer education policies and the ability of a supplier with both a gas and electric license to market or bundle their products.

c. Standard Offer Program:

The OCA has no objection to a properly designed Standard Offer Program (SOP), but at this time the OCA has concerns with the expansion of the currently constructed Standard Offer Programs in place for electric utilities to natural gas utilities. Specifically, the OCA remains concerned about the lack of any assurance that the Standard Offer will provide actual bill savings during the contract term marketed to customers under this program. For example, any Penn Power customer who enrolled in Penn Power's SOP in August 2013, when the PTC was 7.1 cents per kWh, has been paying more than the PTC since September 2013. Under the SOP, a customer who enrolled in August 2013 would have been given a fixed price of 6.6 cents per kWh (7% less than the PTC of 7.1 cents per kWh) for a 12 month term. On September 1st, however, Penn Power's PTC decreased to 5.8 cents per kWh but the SOP price for a customer enrolled in August was fixed at 6.6 cents per kWh. Despite the PTC increasing to 6.002 cents per kWh on December 1st, the customers served under the SOP since August 2013 are still paying 6.6 cents per kWh – more than the current PTC.

The OCA urges the Commission to allow the currently approved electric SOP to operate for a period of time and evaluate the results of those programs prior to undertaking any expansion of these programs for natural gas utilities. In particular, the OCA urges the Commission to evaluate the results of the electric programs in terms of comparisons between the Standard Offer contract prices during the entire term of the contract and the default service or Price to Compare, as well as the impact of the resulting contract terms and customer experiences at the end of the Standard Offer contract term.

d. Low-income customer shopping:

Low-income customers not enrolled in a Customer Assistance Program (CAP) are eligible to participate in the natural gas retail market. The Purchase of Receivables (POR) program allows NGSs to serve low-income customers without risk of uncollectibles, making low-income customers equally desirable to NGSs as other residential customers. In addition, the POR program prevents discrimination against low-income customers as the program requires NGSs to accept all customers responding to an offer without performing a credit check or requiring a security deposit. 52 Pa. Code § 62.224(a)(13)

Currently, CAP customers are not eligible to participate in natural gas retail shopping in most NGDC programs. CAP customer shopping is a complex issue, and significant issues should be addressed prior to the inclusion of CAP customers in the natural gas retail market. These issues include, but are not limited to:

(1) CAP customers' continuing ability to meet the payment obligations;
(2) The terms and conditions for serving CAP customers;
(3) Treatment of CAP customers at the end of any NGS contract term;
(4) Calculation and application of CAP discounts;
(5) Impact on non-CAP residential ratepayers;
(6) Non-discriminatory treatment of CAP customers;
(7) Education initiatives for CAP customers; and
(8) Appropriate consumer protections.

The OCA submits that any CAP shopping program must be designed to allow CAP customers to participate in the natural gas retail market, but at the same time, it must also include essential consumer protections to preserve CAP customers' ability to pay their bills in a timely fashion and maintain the benefits of participation in CAP. The OCA recommends that the following principles guide any CAP shopping design:

1. The CAP Shopping Plan should allow customers to remain on CAP, meet the payment obligations of CAP, and receive the benefits of CAP;

2. The CAP Shopping Plan should not increase the program costs of CAP to nonparticipants, whether by increasing CAP credits or by increasing CAP administrative costs; and

3. The CAP Shopping Plan should not increase program costs of CAP to nonparticipants by adversely affecting ability-to-pay and thus increasing the costs of nonpayment.

e. <u>Expanded Customer Education</u>:

The OCA supports well-designed customer education initiatives. As with the electric customer education initiatives, it will be important to ensure that customers are not promised bill savings as the primary motivation to shop and select an NGS. Rather, educational initiatives should emphasize how to shop and compare offers and different contract terms. Furthermore, the key issue is the cost of these programs and the source of the funds to implement a more widespread education and outreach initiative. Most NGDCs provide customer shopping information and education on their websites, and/or provide information through their routine customer communications. The Commission's PaGasSwitch website sponsors information and education about gas customer shopping and price comparison information. In addition, the OCA promotes its Shopping Guide for natural gas and electric customers on its website and through numerous publications and outreach events. Any additional educational initiatives should reflect a substantial funding obligation by the NGS community and should not be imposed on ratepayers through surcharges or higher rates. Finally, any educational initiative should take into account the timing of customer attention to natural gas prices and potential bill savings since it would be natural for most residential customers to focus on these issues just before or during the winter when natural gas for home heating has the larger impact on monthly bills.

f. <u>Any additional RMI initiative that would translate well to the retail natural gas market</u>:

The OCA is not aware of any such initiative at this time.

Commission Question 7. *To take advantage of the opportunity that is present through the Marcellus Shale resource, should NGDCs and NGSs be encouraged to explore opportunities with natural gas exploration and production companies?*

OCA RESPONSE:

Pennsylvania's NGDC customers have and will continue to receive substantial benefits from the production of Marcellus Shale gas even if their NGDC has not purchased or will not purchase Marcellus Shale gas. This is because Marcellus Shale gas has substantially increased the overall available supply of natural gas, thus lowering overall gas prices in the entire region and nationally due to the competitive market. While Marcellus Shale gas may not always be suitable for injection directly into the systems of local NGDCs,[25] the customers of Pennsylvania NGDCs have still benefitted and will benefit due to the significant downward effect on natural gas prices. Nevertheless, there is no reason not to encourage NGDCs and NGSs to explore opportunities with Marcellus Shale natural gas exploration and production companies as long as any purchases of Marcellus Shale gas by an NGDC are consistent with the NGDC's least cost procurement obligation. Many NGDCs regularly report on their efforts to secure Marcellus Shale supplies in their 1307(f) proceedings.[26]

Commission Question 8. *Recognizing that the Commission withdrew the proposed rulemaking addressing NGDC business practices at Docket No. L-2009-2069117 and committed to commencing a new proposed rulemaking on these issues, please provide comments on the continued need to address standardized supplier tariffs and business practices with regard to imbalance trading, tolerance bands, cash out and penalties, nominations, and capacity.*

OCA RESPONSE:

The Commission's proposed rulemaking in the above-referenced docket was withdrawn largely in response to the Independent Regulatory Review Commission's (IRRC) comments on the proposed rulemaking. In the Order Withdrawing Rulemaking, the Commission noted:

> We acknowledge and accept that the biggest problem with the instant rulemaking is the lack of supporting data to demonstrate the need for standardized business practices and the costs relating to various proposals in the rulemaking.

Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code §§ 62.181-62.185, Docket No. L-2009-2069117, Order Withdrawing Rulemaking at 5-6 (December

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[25] Marcellus Shale gas is generally not suitable for delivery directly into NGDC systems for several reasons: 1) it is often produced at pressures which are too high for delivery to an NGDC (from 750 to 2,500 psig); 2) it often has too high of a Btu content (with a heating value that exceeds 1,200 MBtu); and 3) it contains ethane, propane, and natural gas liquids that must be processed before being delivered into a distribution system. Marcellus Shale gas is therefore often more suitable for delivery into interstate pipelines.

[26] See, e.g., Peoples Natural Gas Company, LLC, Docket No. R-2013-2350914, Direct Testimony of Jon H. Skoog at 42-43.

1, 2011).

The OCA does not oppose the standardization of NGDC business practices, but as the Order Withdrawing Rulemaking notes, it should only be done where cost-effective and prudent. Ohio, which has the highest level of voluntary shopping participation in the country[27], has not standardized business practices for their gas utilities' Choice programs. Before proceeding with any standardization initiatives, there should be a demonstration that any potential benefits associated with the standardization of business practices would exceed the associated costs.

Regarding capacity assignment and system balancing, the OCA supports the current structure whereby the NGDC, as the SOLR, is responsible for providing adequate capacity to NGSs on its system, and is also responsible for balancing its system to account for differences in forecasted and actual NGS daily capacity requirements. The NGDCs' choice programs in Pennsylvania generally provide for the assignment to the NGSs participating in those programs a share of the interstate pipeline transportation capacity and interstate pipeline storage (contract storage) capacity reserved by the NGDC. For those NGDCs with on-system storage, a share of this storage capacity is also made available to the NGSs participating in the choice program of the NGDC. NGSs use the assigned capacity to meet the gas supply requirements of their customers. For NGDCs with on-system storage, the interstate pipeline transportation, contract storage, and on-system storage assigned to an NGS is generally sufficient to meet the design peak day, or maximum daily, requirements of its customers.

For NGDCs without on-system storage, NGSs are generally not assigned transportation and contract storage sufficient to meet the design peak day requirements of its customers. The NGDC retains a portion of its interstate pipeline transportation and contract storage capacity to

[27] As of July 2013, Ohio's Choice shopping rate was 50.13%. In the Matter of the Commission's Review of the Natural Gas Retail Market Development, Case. No. 13-1307-GA-COI, Comments by the Office of the Ohio Consumers' Counsel at 16-17 (July 9, 2013).

accommodate, as subsequently discussed, the balancing requirements of the NGSs' choice customers. NGSs pay for capacity retained by the NGDC for balancing purposes and this retained capacity is available to meet the requirements of NGSs' customers when those requirements exceed the level of capacity assigned to the NGS.

NGSs are generally provided forecasts of their choice customers' requirements on a daily basis and must deliver those requirements to the NGDC using their available capacity resources. These capacity resources include capacity assigned to the NGS by the NGDC or any other capacity resources available to the NGS.[28] Inevitably, for many reasons including forecast error and differences between forecasted and actual weather, the forecasted and actual daily requirements of an NGS's customers will not be in balance. To accommodate these imbalances, NGDCs with on-system storage will generally use on-system and contract storage to address the imbalance. That is, the NGDC will use its on-system and contract storage differently than originally anticipated under forecasted conditions. For NGDCs without on-system storage, to accommodate imbalances, the NGDC will use the capacity retained for this purpose.

The OCA submits that the current system of balancing and interstate pipeline capacity assignment procedures are reasonable in that the interstate pipeline transportation and contract storage capacity assigned to NGSs is paid for by NGSs and their customers. NGSs and their customers also pay for any capacity retained by the NGDC to provide balancing service on their behalf. The interstate pipeline transportation and contract storage capacity retained by the NGDC and not assigned to NGSs, or necessary to provide balancing service, is paid for by NGDC sales customers through PGC rates. The costs associated with the on-system storage assigned to NGSs and the on-system storage retained by the NGDC to serve its own PGC

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[28] Under design peak day conditions, for NGDCs without on-system storage, the NGS would only be required to deliver supplies equivalent to the amount of capacity assigned to it by the NGDC.

customers are recovered through the base rates of both choice and PGC sales customers.

As previously discussed above, NGDCs currently incur costs in conjunction with the performance of the balancing function. If the NGDC is removed as the SOLR, the NGDC's interstate pipeline capacity, and if applicable, on-system storage would need to be assigned to the new SOLR in order for the new SOLR to fulfill its obligations. However, the need for the NGDC to perform a balancing function will still remain. Interstate pipeline capacity and on-system storage assets will be required by the NGDC to provide this balancing function and there will be costs associated with these assets. Therefore, total costs to ratepayers are likely to be higher if the NGDC is removed as the SOLR.

III. CONCLUSION

The OCA appreciates the opportunity to provide its initial Comments on the Commission's Investigation of the retail natural gas supply market. As set forth herein, the OCA submits that opportunities exist for the Commission to improve and enhance the retail natural gas market for the benefit of consumers. The OCA looks forward to working with the Commission and other stakeholders in addressing these important issues.

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Natural Gas Sample Customer Choice Analysis

The OCA conducted a sample analysis to determine whether customers in Pennsylvania would have realized benefits from switching to an alternative supplier in October of 2012. The OCA used a hypothetical sample customer who picked an alternative supplier with a fixed rate product. The OCA compared the NGSs' actual price offerings as reported in the OCA's Shopping Guide with the NGDCs' price-to-compare for the annual period October 2012 through September 2013.[1] More specifically, the OCA's analysis compared the lowest cost twelve-month fixed price offer by an NGS in each NGDC's service territory with each NGDC's PTC for the same twelve-month period.[2] The analysis was based on a typical monthly usage pattern of a Residential customer using 100 Mcf annually.[3] The results of the OCA's analysis are presented below and indicate that for two NGDCs, modest savings would have been realized, but for the majority of NGDCs, the sample customer would not have achieved savings by choosing the lowest cost fixed rate option.

The OCA's results indicate that in two service territories, NFGD and PECO, annual savings on the commodity portion of the bill would have been realized in the amounts of $32.64 and $23.14, respectively. On the commodity portion of the bill, the NFGD sample customer would have spent $592.64 based on the PTC and $560.00 based on the NGS offer for the 12

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[1] The OCA utilized its Shopping Guides for these offers and the PTCs, found at http://www.oca.state.pa.us/Industry/Natural_Gas/gascomp/Archive/gaspricecharts_archive.html.

[2] Where there was no twelve month fixed price lower than the PTC, the OCA utilized the lowest priced eleven, twelve, or thirteen month fixed price offer available in that service territory.

[3] The OCA winter-weighted the analysis based on the total actual monthly supply sales to residential customers for each month of the twelve-months included in the analysis. To simplify the analysis, the OCA did not make an adjustment for the fact that the migration rider would have been charged to the customer for that 12 month period.

month period. The savings represent a 5.5% decrease in annual natural gas commodity costs.[4] The PECO sample customer would have spent $523.14 based on the PTC and $500.00 based on the NGS offer for the 12 month period. The savings represent a 4.4% decrease in annual natural gas commodity costs.

In the remaining service territories, however, the OCA's results indicate that the sample customer's annual bill would have increased. The supply prices range from an increase in the annual bill of $36.22 in Columbia Gas of Pennsylvania's territory, of $62.84 in UGI PNG's service territory, and of $167.95 for an eleven-month fixed price offer in Equitable Gas' service territory. A chart summarizing the results is included below. For Columbia Gas' service territory, the sample customer would have had an annual commodity bill of $417.78 based on the PTC and $454.00 based on the NGS offer. This amounts to an 8.7% increase in annual natural gas commodity costs. For UGI PNG's service territory, the sample customer would have had an annual commodity bill of $507.16 based on the PTC and $570.00 based on the NGS offer. This amounts to a 12.4% increase in annual natural gas commodity costs. For Equitable Gas' service territory, the sample customer would have would have had an annual commodity bill of $516.78 based on the PTC and $684.73 based on the NGS eleven-month fixed price offer.[5] This amounts to a 32.5% increase in annual natural gas commodity costs.

The OCA acknowledges that this review covered a limited period of time, but the information is instructive. To the extent that further information of actual customer experiences can be developed by the NGDCs, or through multi-year reviews of price offers, the OCA submits that such information should be gathered as part of this Investigation.

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4 The savings numbers quoted above do not include the effect of the migration rider being charged to these customers, as the OCA explained in footnote 3.

5 Again, please note that the OCA used an eleven month NGS offer is this example because no twelve month option was offered by an NGS.

APPENDIX A

EFFECT ON GAS COSTS OF SHOPPING Residential Customer Using 100 Mcf October 2012 – September 2013	
NGDC	**Increase/(Savings)**
Columbia Gas of Pennsylvania	$36.22
Equitable Gas Company	$167.95[(1)]
National Fuel Gas Distribution	($32.64)[(2)]
PECO Energy	($23.14)
Peoples Natural Gas	$40.90[(3)]
UGI Utilities	$38.69
UGI PNG	$62.84

Notes:

(1) No one-year fixed price offers available. Reflects 11-month fixed price offer.

(2) An 11-month fixed price offer was also available which would have increased costs by $100.63.

(3) Reflects 11-month fixed price offer. One-year fixed price offer would have increased costs by $591.31, but this offer was considered unrepresentative.