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December 12, 2013

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

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Enclosed please find the Comments of Valley Energy, Inc. regarding the above-referenced proceeding.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Pamela C. Polacek', written in a cursive style.

Pamela C. Polacek

Counsel to Valley Energy, Inc.

PCP/sar
Enclosure

c: Certificate of Service

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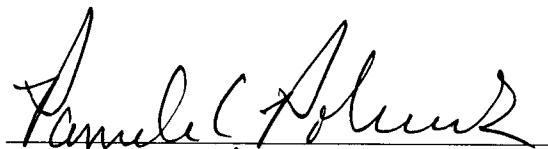
I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Pamela C. Polacek

Counsel to Valley Energy, Inc.

Dated this 12th day of December, 2013, at Harrisburg, Pennsylvania.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation of Pennsylvania's
Retail Natural Gas Supply Market

Docket No. I-2013-2381742

COMMENTS OF VALLEY ENERGY, INC.

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Dated: December 12, 2013

I. INTRODUCTION

On September 12, 2013, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued an Order opening a formal investigation into the current status of Pennsylvania's retail natural gas market ("Investigation").¹ The purpose of the Investigation, according to the Commission, is to "assess whether effective competition exists and make recommendations for improvements to ensure that a properly functioning and workable competitive retail natural gas market operates in the state."² In addition to setting forth the procedural structure of the investigation, the RMI Order poses a number of questions regarding the current state of the retail natural gas market and requests responses from interested stakeholders.³

The RMI Order describes the scope of the Commission's investigation of Pennsylvania's retail natural gas supply market as a two-phase mission, with the first phase dedicated to assessing the status of the current market and exploring necessary changes to allow customers to best realize the benefits of competition, and the second phase designed to implement the needed changes identified in the initial phase.⁴ To begin the first phase of its Investigation, the Commission has asked that interested parties answer eight questions that are geared toward developing a complete appraisal of the current status of Pennsylvania's retail natural gas market.⁵

Valley Energy, Inc. ("Valley" or "Company") submits these Comments in response to the RMI Order. In light of Valley's unique operational challenges and the current uncertainty surrounding the scope of the Investigation, Valley requests an exemption from compliance with

¹ *Investigation of Pennsylvania's Retail Natural Gas Supply Market*, Docket No. I-2013-2381742, Order (Sept. 12, 2013) ("RMI Order").

² *Id.* at 2.

³ *See id.* at 3-4.

⁴ *Id.*

⁵ *Id.*

any changes to its current functions in the retail natural gas supply market pending additional review and analysis, which cannot reasonably occur until the Commission issues its final directives at this docket. Such an exemption would allow Valley to effectively evaluate the results of the Investigation and to fully inform the Commission of the costs and operational hindrances associated with compliance. Valley further urges the Commission to allow for a separate procedural track in this Investigation for small gas utilities to facilitate increased competition while maintaining service reliability. For convenience, the remainder of these Comments will mirror the order and presentation of issues in the RMI Order.

II. COMMENTS

A. Valley's Unique Operational Circumstances Warrant an Exemption from Immediate Compliance with the Outcomes of the Investigation

As discussed below, Valley's unique operational circumstances warrant an initial 180-day exemption from compliance with the outcomes of this Investigation. Specifically, the Commission should provide Valley with the opportunity at the conclusion of the Investigation to submit a report regarding: (a) the feasibility and merits of complying with each of the final initiatives that are required of larger natural gas distribution companies ("NGDCs") as a result of this Investigation; (b) the projected costs of compliance with each; and (c) a realistic timeline for implementation. In light of the distinct challenges Valley faces as a jurisdictional NGDC, the proposed exemption would allow Valley to critically evaluate the costs associated with implementation of the Investigation's initiatives and to determine the impact to its customers. The proposed exemption would also allow the Commission to review Valley's findings and require those initiatives that will facilitate the goals of the Investigation without unduly burdening Valley or its customers.

Valley is one of the smaller jurisdictional NGDCs in Pennsylvania, serving eleven communities in Bradford County, Pennsylvania and Tioga County, New York. Valley provides service to approximately 6,466 customers in Sayre, Pennsylvania, and the surrounding area. Of Valley's 6,466 total customers, approximately 5,623 of these customers are residential customers, while 843 are commercial or industrial. Valley also serves approximately 1,798 customers in New York. Valley's supply of natural gas for all of its customers is delivered through a single city gate in Pennsylvania, and a local production well located in the Pennsylvania portion of its territory. Approximately 90 percent of Valley's throughput is supplied by natural gas suppliers ("NGSs"); however, the accounts that make up this high percentage are largely commercial and industrial customers.

In addition to its limited customer base and small service territory, Valley has many distinguishing factors that differentiate its service territory and its operations as an NGDC from the majority of other NGDCs in Pennsylvania. First, unlike large NGDCs which employ a sizable staff to oversee operations and customer relations, Valley currently relies on 25 personnel to serve its customers. Second, there are no NGSs currently serving residential and small commercial customers in Valley's service territory. In fact, given Valley's small territory and limited customer base, PAGasSwitch, the Commission's website geared toward increasing competitive shopping among the residential and small commercial customer classes, does not even list Valley as an NGDC.⁶ What is more, facilitating such competitive shopping in Valley's service territory would prove difficult given that all of the gas supplied to these customers is delivered via a single interstate pipeline through a single city gate. From an NGS perspective, Valley questions whether it makes sense to incur the costs and expend the labor associated with

⁶ See http://www.puc.pa.gov/consumer_info/natural_gas/natural_gas_shopping/gas_shopping_tool.aspx (Valley does not appear in the drop-down menu of NGDCs for customers to select in location an alternative NGS).

marketing to approximately 5,000 customers in a relatively remote and distinct customer market.

Third, Valley is the only small NGDC required to comply with the Natural Gas Choice Competition and Competition Act of 1999 ("Competition Act").⁷ Unlike Valley's Section 1307(f) utility counterparts, Valley files its price-to-compare ("PTC") annually.⁸ Most importantly, Valley does not have an electronic data interchange ("EDI") system for coordination with NGSs. With the small number of accounts that are currently shopping, Valley can effectively process coordinated activities without EDI. For all of these reasons, Valley will be uniquely burdened in implementing any changes to the current retail natural gas structure resulting from this Investigation that rely on EDI system availability. Valley's sister-utilities in Pennsylvania – Citizens' Electric Company of Lewisburg, PA ("Citizens") and Wellsboro Electric Company ("Wellsboro") are exploring the implementation of EDI due to the initiative to promote electric choice. Preliminary estimates from their billing system provider indicate that the project cost could be \$500,000 to \$1,000,000, or higher. The costs are also influenced by the functionalities that the system must accommodate. Valley will not be able to provide an accurate estimate of the costs until the end of the Investigation once the market-promotion initiatives are finalized by the Commission.

While the RMI Order describes the procedural stages of the Investigation, the scope of its outcome and the accompanying cost parameters are unknown. Given that the RMI Order envisions a "robust and effective competitive natural gas industry," and in light of Valley's distinctive characteristics, changes to the structure of the retail natural gas supply market that are

⁷ 66 Pa. C.S. § 2201, *et seq.*

⁸ Compare 52 Pa. Code § 53.66 with 52 Pa. Code § 53.64(i)(5)(a). Valley notes that the PUC is currently considering revisions to the GCR filing requirements in a separate rulemaking proceeding. See *Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the Recovery of Fuel Costs by Gas Utilities*, Docket No. L-2013-2346923, Proposed Rulemaking Order (May 9, 2013) ("GCR Proposed Rulemaking Order").

effective in large NGDC territories may not be successful for Valley or beneficial to its customers. Accordingly, Valley requests an exemption from compliance with the outcomes of the Investigation pending further review and analysis. Such an exemption is consistent with the Commission's approach to the unique challenges facing small jurisdictional electric distribution companies ("EDCs") in its recently concluded investigation into Pennsylvania's retail electricity market.⁹ As with EDCs, jurisdictional NGDCs are not "one-size-fits-all"; moreover, Valley is uniquely situated in light of its small size and extensive statutory obligations. An exemption is therefore appropriate to allow for individualized consideration of the Investigation's outgrowths and initiatives and to ensure Valley is not unduly burdened by compliance with the Commission's directives.

While Valley will continue to monitor the activity of the Investigation and participate as warranted, an exemption would ensure that any initiatives adopted in the course of the Investigation are appropriately tailored to facilitate increased competition without jeopardizing affordable and reliable service to Valley's customers. Specifically, Valley requests a 180-day waiver of the deadline to comply with the Commission's directives for NGDCs in order to evaluate the results of the Investigation and their potential impact on Valley and its customers. Upon expiration of the exemption period, Valley will submit a report to the PUC outlining the projected costs for compliance with the Commission's directives and providing recommendations regarding each initiative's potential effect on increased competition for residential and small commercial customers in Valley's service territory. Upon Commission review and determination, Valley will comply with the Commission's findings as directed.

⁹ See, e.g., *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan*, Docket No. I-2011-2237952, Final Order (Mar. 1, 2012) (exempting Citizens' Electric Company of Lewisburg, PA, and Wellsboro Electric Company from implementing various initiatives in light of operational constraints).

B. The Commission Should Consider Implementing a Separate Procedural Track for Small Gas Utilities.

As written, the RMI Order collectively refers to utilities serving in the distribution role as "NGDCs." The Commission does not draw a distinction between small gas utilities and 1307(f) utilities when discussing the current state of the retail natural gas supply market and in the questions posed to stakeholders. While Valley realizes that promoting competition in the retail gas market is an important objective, the Commission should be mindful that any changes to the current structure of the retail natural gas supply market would impose the same burdens upon all NGDCs, regardless of the NGDC's size and resources. Small NGDCs already operating with limited resources would be forced to comply with the same regulatory burdens as large NGDCs. As a result, the ability of small NGDCs to provide reliable service their customers could be jeopardized as monetary and staff resources are redirected towards the Investigation.

In order to ensure adequate consideration of the challenges facing small NGDCs in implementing changes resulting from this Investigation, the Commission should consider adopting a separate procedural track for small gas utilities. As explained above, small NGDCs such as Valley face different operational and resource issues than larger NGDCs. Those differences may stem from a number of factors, including the size of the territory, the geographic location of the territory, the number of interstate pipeline city gates serving the territory, the number of employees, and the level of automation of supplier practices. Unlike electric service, which is provided throughout the Commonwealth, gas territories do not have universal coverage. As a result, increased marketing initiatives aimed at small commercial and residential customers in larger territories will not necessarily result in a "spill over" effect in small NGDCs' service territories. Given these significant operational differences, a separate procedural track is appropriate to ensure that small gas utilities are prepared to implement changes to facilitate

increased competition in their service territories without jeopardizing reliable service to customers.

A separate procedural track for small gas utilities is consistent with the Commission's understanding of the challenges these NGDCs face in comparison to their 1307(f) counterparts. As the Commission recently noted in its GCR Proposed Rulemaking Order, "small gas utilities operate in a manner similar to that of 1307(f) utilities, while often encountering more obstacles in the marketplace due their diminished purchasing options and capabilities."¹⁰ A separate procedural track for small NGDCs is therefore appropriate in to account for the "obstacles" facing small NGDCs in implementing changes to the retail natural gas supply market structure and to maintain safe and reliable service to small NGDC customers during the transition.

C. Questions Regarding The Status of Pennsylvania's Retail Natural Gas Supply Market.

As noted above, Valley submits the following responses to the eight questions that the Commission included within its RMI Order. Valley limits its responses to those issues that are relevant to Valley.

1. Status of Retail Natural Gas Competition in Valley's Service Territory

The RMI Order requests stakeholder feedback regarding the current status of retail natural gas competition for customers, by class and by service territory, as well as for NGSs.¹¹ The RMI Order also requests feedback regarding the accessibility of competitive suppliers to each customer class and service territory.¹²

As an NGDC subject to the Competition Act, Valley provides the Commission with the monthly volumetric percentage of its load being served by an NGS. These statistics are available

¹⁰ GCR Proposed Rulemaking Order at 12.

¹¹ RMI Order at 3.

¹² *See id.*

for public consumption on the Commission's website.¹³ As of November, 2013, 46 customers comprising 89.9% of Valley's total throughput are served by an NGS.¹⁴ All 46 of the customers taking supply service from an NGS are commercial and industrial ("C&I") customers. The data makes clear that while C&I customers are actively shopping for supply in the retail natural gas market, residential customers (and, by in large, small commercial customers) are not. Nor do competitive suppliers appear to be interested in Valley's service territory. As discussed in Section A, *supra*, Valley's small number of customers and geographic limitations make its service territory an unattractive target for marketing alternative retail natural gas supply. Significant changes to the current retail market structure will therefore be required to facilitate NGS competition for Valley's residential and small commercial customer classes.

2. Valley's Currently Effective Rate Structure

Question 2 of the RMI Order asks whether currently effective NGDC rates are properly structured to reflect the distinction between the costs associated with the NGDC's role as Supplier of Last Resort ("SOLR") and its role as a distribution utility.¹⁵ Valley submits that its current rate structure satisfactorily reflects the separation between its SOLR role and its distribution utility costs. As noted previously, Valley is a small gas utility that submits its purchased gas cost filings on an annual basis pursuant to Section 53.66 of the Commission's regulations.¹⁶ Pursuant to its Commission-approved Gas Cost Rate ("GCR") Tariff, Valley includes the majority of its gas procurement costs in its GCR rate rather than in base rates.¹⁷ The costs of Valley's third party gas supply manager and credit for the SOLR function are included in

¹³ See http://www.puc.state.pa.us/NaturalGas/pdf/GasSwitch/GasSwitch_ShoppingNumbers_113013.pdf (providing percentages of NGDC customers switching to NGSs as of November 2013).

¹⁴ See *id.*

¹⁵ See RMI Order at 3.

¹⁶ See 52 Pa. Code § 53.66.

¹⁷ See *Petition of Valley Energy, Inc. for Conformation or Waiver of Compliance with 52 Pa. Code § 62.223*, Docket No. P-2012-2321937, Order (Dec. 5, 2012).

the GCR. The cost categories remaining in Valley's base rates that pertain to the SOLR role are minimal or non-existent.¹⁸ Accordingly, Valley contends that its current rate structure appropriately distinguishes its dual roles as SOLR and distribution utility.

3. Effect of Existing Market Design on Full Participation in the Retail Market

Question 3 of the RMI Order requests feedback regarding whether the existing market design of NGDCs serving as the SOLR presents barriers to a more robust competitive market for customers or NGSs.¹⁹ Valley submits that its role as SOLR under the current market structure has no effect on the level of participation in the market, either by inhibiting residential and small commercial customers from shopping, or by preventing suppliers from fully accessing the retail market in Valley's service territory. As discussed in Section C(1), *supra*, Valley's small customer base and geographic limitations are the likely reasons for limited shopping among the residential and commercial customer classes.

4. NGDCs Should Continue in the Role of Supplier of Last Resort

The RMI Order requests comment on whether NGDCs should continue to serve in the role of SOLR.²⁰ Valley recommends that NGDCs retain the SOLR function to preserve system reliability and prevent market disruption. Given the significant infrastructure requirements for natural gas transportation and distribution and the lack of regional market oversight, it is imperative that the entity serving in the SOLR role be equipped to address reliability concerns and maintain safe, reliable and uninterrupted service. As an SOLR, Valley is charged with providing supply services to customers whose NGSs have failed to deliver their service

¹⁸ *See id.* When incurred, these costs include such items as legal expenses or write-offs.

¹⁹ *See* RMI Order at 3.

²⁰ *Id.*

requirements.²¹ Moreover, the purpose of the SOLR role is to "provide sufficient supplies as to quantity, quality, pressure and location to meet the operational reliability requirements of the NGDC's system."²² Additionally, while the retail electric market relies on PJM Interconnection, L.L.C. ("PJM") to balance supply and demand in order to "keep the lights on," the retail natural gas supply market has no such equivalent reliability backstop because each NGDC must balance supply and demand in its own service territory. Given NGDCs' proven track record as reliable and efficient SOLRs, Valley recommends that the Commission retain NGDCs in the SOLR role.

5. Potential Enhancements and Updates to Current SOLR Model

The RMI Order requests feedback regarding potential enhancements and updates to the current SOLR model that would improve the level of competition in the retail natural gas market.²³ Specifically, the RMI Order requests comment on (1) the opportunities to encourage expansion of natural gas distribution facilities into areas of the Commonwealth not currently served; (2) changes that the Commission can undertake through regulation or policy to promote competition; (3) changes that the Commission can undertake through regulation or policy to remove barriers to competition; and (4) potential legislative changes to further improve the retail natural gas market in Pennsylvania.²⁴

As discussed in detail throughout these Comments, Valley's unique position as a small jurisdictional NGDC subject to the requirements of the Competition Act limit the general applicability of its observations. Valley reiterates that, short of auctioning off the SOLR role, implementing EDI services, or instituting billing system changes, there is little that can be done to improve the state of competition among the residential and small commercial customer classes

²¹ See 52 Pa. Code § 69.13(a)(3).

²² See *id.* § 69.13(c).

²³ RMI Order at 3.

²⁴ See *id.* at 3-4.

in its service territory. Valley is prepared to expand its natural gas distribution service facilities to serve additional customers if called upon to do so, and has done so recently to accommodate the Moxie Liberty electric generating plant.²⁵

Valley reserves the right to respond to other stakeholders' proposals on proposed legislative or regulatory changes to "promote" competition or "improve" the retail natural gas market in the Commonwealth.

6. Outcomes from Electric Retail Market Investigation Applicable to Implement in Retail Gas Market

Question 6 of the RMI Order requests comment on whether there are outcomes from the recently completed electric retail market investigation that would be useful to adopt in this Investigation.²⁶ The Commission identifies a number of specific outcomes from the electric market investigation that may be applicable, including seamless move; accelerated switching timeframes, standard offer programs; low-income customer shopping; and expanded consumer education regarding shopping.²⁷ Question 6 further solicits any additional electric retail markets initiatives that would "translate well" into the retail natural gas market.²⁸

Although the electric retail market investigation generated a number of successful initiatives that resulted in increased competition, Valley urges the Commission to remain mindful of the costs associated with implementation of these initiatives in the context of the natural gas market. Whether or not customers shop, it will be expensive to implement these changes. For instance, accelerated switching timeframes and seamless move would require significant changes to Valley's billing software that could be cost-prohibitive to implement.

²⁵ See *Application of Valley Energy, Inc. for Approval to Begin to Offer, Render, Furnish of Supply Gas Utility Service to the Public in Asylum Township, Bradford County*, Docket No. A-2012-2335954, Order (Feb. 28, 2013).

²⁶ See RMI Order at 4.

²⁷ *Id.*

²⁸ *Id.*

Given Valley's limited resources, the Commission should ensure that the benefits of any initiatives adopted to facilitate shopping outweigh the costs of implementation.

7. Opportunities For Partnership With Natural Gas Exploration and Production Companies

The RMI Order makes particular note of the "tremendous natural gas resources" available in Pennsylvania through the Marcellus Shale resource.²⁹ In the interest of maximizing the opportunities available to increase retail competition through the Marcellus Shale play, the Commission requests comment on whether NGDCs and NGSs should be "encouraged" to explore opportunities with natural gas exploration and production companies.³⁰ Valley submits that no additional regulation is necessary to encourage NGDCs to partner with natural gas exploration and production entities. Given Valley's territory location in northern Pennsylvania and New York, Valley is well aware of the opportunities available through the Marcellus Shale resource and already purchases locally purchased gas when it is economically reasonable to do so. Moreover, NGDCs are sophisticated corporate entities that are capable of seeking out advantageous opportunities to partner with exploration and production companies to procure natural gas. Accordingly, Valley recommends that the Commission permit NGDCs to explore opportunities with natural gas exploration and production entities without additional regulatory oversight.

8. Proposed Rulemaking On NGDC Business Practices

Finally, recognizing that the Commission withdrew its 2009 Proposed Rulemaking regarding NGDC business practices,³¹ the RMI Order questions whether there is a continued need for a rulemaking proceeding to address standardized supplier tariffs and business practices

²⁹ *Id.* at 2.

³⁰ *Id.* at 4.

³¹ The Commission withdrew its proposed rulemaking in Docket No. L-2009-2069117 on December 1, 2011.

with regard to imbalance trading, tolerance bands, cash out and penalties, nominations and capacity.³² Valley recommends that the Commission refrain from standardizing NGDC business practices. As the Commission is aware, NGDC business practices have been developed on a territory-specific basis over many years pursuant to a collaborative process with customers. These practices have been tailored to address the unique considerations of each NGDC service territory, and are effective and responsive to retail market changes. Standardization of NGDCs' business practices would upend these carefully crafted and individualized schemes. Accordingly, Valley does not foresee a need for a new rulemaking proceeding to address standardization of NGDC business practices and recommends that the Commission retain the historically effective individual business practice scheme in place.

³² RMI Order at 4.

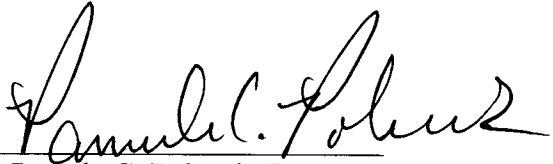
III. CONCLUSION

WHEREFORE, Valley Energy, Inc. respectfully requests that the Pennsylvania Public Utility Commission:

- (1) Grant Valley a 180-day exemption from compliance with the outcomes of this Investigation;
- (2) Consider a separate procedural track for small gas utilities in this Investigation; and
- (3) Consider and adopt these Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Dated: December 12, 2013