

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: April 28, 2004	2. BUREAU AGENDA NO. MAY-2004-FUS-1020*
3. BUREAU: Fixed Utility Services	
4. SECTION(S): Energy	5. PUBLIC MEETING DATE:
6. APPROVED BY: Director: Rosenthal 3-5242 Mgr/Spvr: Bennett 7-5553 Legal Review:	May 7, 2004
7. PERSONS IN CHARGE: Rodrock/Shurskis 7-8763	
8. DOCKET NO.: A-125125 A-125036F2000	

DOCKETED
MAY 11 2004

9. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**

**DOCUMENT
FOLDER**

- (a) Agway Energy Services, LLC / Agway Energy Services-PA, Inc.
(Home Office: Syracuse NY / DeWitt NY)
Petition to Transfer a Natural Gas Supplier License and License Application /
Abandonment of a Natural Gas Supplier License.
- (b) On January 2, 2004, Suburban Propane LLC filed a Petition requesting approval for the transfer of the natural gas supplier ("NGS") license of Agway Energy Services-PA, Inc. ("AES-PA"), at Docket No. A-125036, to Agway Energy Services, LLC ("AES LLC"). On February 23, 2004, AES LLC filed a license application, at Docket No. A-125125, to offer, render, furnish or supply natural gas supply services to residential and commercial customers in the service territories of Columbia Gas of Pennsylvania, Inc. and The Peoples Natural Gas Company, within the Commonwealth of Pennsylvania, as a broker/marketer, aggregator and supplier of natural gas services.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed draft Order that approves the transfer of AES-PA's NGS license to AES LLC, approves the license application at Docket No. A-125125 and cancels the NGS license at Docket No. A-125036.

10. **MOTION BY:** Commissioner Chm. Fitzpatrick Commissioner Thomas - Yes
 Commissioner Pizzingrilli - Yes
SECONDED: Commissioner Bloom Commissioner Holland - Yes

CONTENT OF MOTION: Staff recommendation adopted.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

MAY 10, 2004

A-125125
A-125036 F2000

SCOTT DEBROFF ESQUIRE
DEBROFF CONSULTING GROUP
4709 PINE RIDGE ROAD
HARRISBURG PA 17110

DOCUMENT

DOCKETED
MAY 25 2004

Petition to Transfer Natural Gas Supplier License from Agway Energy Services-PA, Inc., to Agway Energy Services, LLC and License Application of Agway Energy Services, LLC.
A-125125

Abandonment of the Natural Gas Supplier License of Agway Energy Services-PA, Inc.
A-125036 F2000

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on May 7, 2004 has adopted an Order in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

fg
encls
cert. mail

See Attached Listing for Additional Parties of Record

KATHY FOLEY PRESIDENT
NIDO'S LTD INC
P O BOX 24
MERIDAN BRANCH
BUTLER PA 16001

BOYD HILLWIG TREASURER
ANDRESSI GAS COMPANY
1073 KITTANNING PIKE
CHICORA PA 16025

KAIB AND KAIB
BOX 8034
ZANESVILLE OH 43702-8034

SANDRA L BITNER
CHARTIERS NATURAL GAS COMPANY
203 HENRY WAY
JEANNETTE PA 15644

FRED A STEELE
GASCO DISTRIBUTION SYSTEMS INC -
CLAYSVILLE DIVISION
4435 EAST PIKE
ZANESVILLE OH 43701

TERRENCE J MURPHY VICE
PRESIDENT REG/GOV POLICY
COLUMBIA GAS OF PA INC
650 WASHINGTON ROAD
PITTSBURGH PA 15228

DWIGHT N STONER
CRG INC
R D #3 BOX 56
KNOX PA 16232

RANDALL CRAWFORD EXEC VICE
PRESIDENT
EQUITABLE GAS COMPANY
200 ALLEGHENY CENTER MALL
PITTSBURGH PA 15212-5352

GREENRIDGE OIL OF PA INC
P O BOX 44
ALEPPO PA 15310

MARK E SMITH
HERMAN OIL & GAS COMPANY INC
R D 3
BUTLER PA 16001

JOHN SIPICS PRESIDENT
PENN FUEL GAS INC
55 S THIRD STREET
OXFORD PA 19363

JEFFERSON GAS COMPANY
C/O EQUITABLE RESOURCES INC
ONE OXFORD CENTRE #3300
301 GRANT STREET
PITTSBURGH PA 15219-1407

RANDY L LARKIN
LARKIN OIL & GAS COMPANY
P O BOX 58
CALLENSBURG PA 16213

CHARLES E MYERS
MYERS GAS COMPANY
MAIN STREET
KENNERDELL PA 16374

CARL M CARLOTTI VICE PRESIDENT
NATIONAL FUEL GAS DISTRIBUTION
P O BOX 2081
ERIE PA 16512

SAM H MILLER VP
NORTH EAST HEAT & LIGHT CO
10700 WEST MAIN ROAD
NORTH EAST PA 16428

ROBERT E CRAIG
WALLY GAS COMPANY
P O BOX 191
CHICORA PA 16025

VALLEY ENERGY INC
523 SOUTH KEYSTONE AVENUE
SAYRE PA 18840

JEFFERY H SUNDAY HOUSE COUNSEL
PG ENERGY
ONE PEI CENTER
WILKES-BARRE PA 18711-0601

MARY PATRICIA KEEFE ASSOCIATE
GENERAL COUNSEL/DIR REG AFFRS
NUI VALLEY CITIES GAS
ONE ELIZABETHTOWN PLAZA
UNION NJ 07083

SUSAN GEORGE ESQUIRE
MANAGING COUNSEL
DOMINION PEOPLES
625 LIBERTY AVENUE
PITTSBURGH PA 15222-3197

WARD L SMITH ESQUIRE
PECO ENERGY COMPANY
2301 MARKET STREET
P O BOX 8699
PHILADELPHIA PA 19101-8699

WILLIAM H NEWHART JR
WALKER GAS AND OIL COMPANY INC
P O BOX K
BRUIN PA 16022

ROBERT M HOVANEC VP
T W PHILLIPS GAS & OIL COMPANY
205 NORTH MAIN STREET
BUTLER PA 16001

PIKE COUNTY LIGHT AND POWER
COMPANY
ONE BLUE HILL PLAZA
PEARL RIVER NY 10965

JOHN HABJAN PRESIDENT
PINE-ROE NATURAL GAS COMPANY
P O BOX 146
CLARION PA 16214

ANNA PEARL RIEMER
HERMAN RIEMER GAS COMPANY
134 WINFIELD ROAD
SARVER PA 16055

MATHEW B SICHER PRESIDENT
SERGEANT GAS COMPANY
14 GREEVES STREET
KANE PA 16735

SIGEL GAS COMPANY
1990 PACKING ROAD STE 2
NEW BETHLEHEM PA 16242

ROBERT CHANEY PRESIDENT
UGI CORPORATION
100 KACHEL BLVD SUITE 400
P O BOX 12677
READING PA 19612-2677

MARK S KUMM VICE PRESIDENT
PEPCO ENERGY SERVICES INC
2000 K STREET NW SUITE 750
WASHINGTON DC 20006

ABLE CO LTD
P O BOX 23
SPRING CHURCH PA 15686

KENNETH SONGER D/B/A CORSICA
GAS COMPANY
PO BOX 256
CORSICA PA 15829

OFFICE OF CONSUMER ADVOCATE
FORUM PLACE
555 WALNUT STREET 5TH FLOOR
HARRISBURG PA 17101-1921

OFFICE OF SMALL
BUSINESS ADVOCATE
COMMERCE BLDG STE 1102
300 NORTH SECOND STREET
HARRISBURG PA 17101

THE DEPARTMENT OF REVENUE
BUREAU OF AUDIT PROGRAMS
SALES AND USE TAXES
STRAWBERRY SQUARE 10TH FLOOR
HARRISBURG PA 17128-1061

JANICE MEOLA ESQUIRE
LEGAL DEPARTMENT PLAZA 1
240 ROUTE 10 WEST
PO BOX 206
WHIPPANYT NJ 07981

PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF THE APPLICATION OF: A-125125

Application of Agway Energy Services, LLC., for the right to begin to offer, render, furnish or supply natural gas supply services to the public, within the service territories of Columbia Gas of Pennsylvania, Inc., and The Peoples Natural Gas Company, within the Commonwealth of Pennsylvania.

The Pennsylvania Public Utility Commission hereby certifies that after an investigation and/or hearing, it has, by its report and order made and entered, found and determined that the granting of the application is necessary or proper for the service, accommodation, convenience and safety of the public and hereby issues, evidencing the Commission's approval, to the applicant this:

LICENSE FOR NATURAL GAS SUPPLIER.

In Witness Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 7th day of May, 2004.


Secretary

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held May 7, 2004

Commissioners Present:

Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Glen R. Thomas
Kim Pizzingrilli
Wendell F. Holland

DOCKETED
MAY 25 2004

Petition to Transfer Natural Gas Supplier License
from Agway Energy Services-PA, Inc. to Agway
Energy Services, LLC and License Application
of Agway Energy Services, LLC

A-125125

Abandonment of the Natural Gas Supplier
License of Agway Energy Services-PA, Inc.

A-125036F2000

ORDER

DOCUMENT

BY THE COMMISSION:

On January 2, 2004, Suburban Propane LLC ("Suburban"), parent company of Agway Energy Services, LLC ("AES LLC") filed a petition, pursuant to 52 Pa. Code §62.112, requesting the transfer of Agway Energy Services-PA, Inc.'s ("AES-PA") natural gas supplier ("NGS") license at Docket No.A-125036 from AES-PA to AES LLC.

AES-PA is a natural gas supplier in the Commonwealth of Pennsylvania, at Docket No. A-125036. AES-PA is licensed as a broker/marketer and provider of natural gas supply services to residential, small commercial and farm customers in the following natural gas distribution company service territories: Columbia Gas of Pennsylvania, Inc., The Peoples Natural Gas Company, PG Energy, Inc., Equitable Gas Company, National Fuel Gas Distribution Corporation, UGI Utilities, Inc., PECO Energy Company, PFG Gas, Inc., Carnegie Natural Gas Company, T.W. Phillips Gas & Oil Company and NUI Valley Cities Gas. By Order, adopted December 2, 1999, AES-PA was granted a license, contingent upon providing evidence to the Commission within 30 days of the completion of the restructuring proceedings encompassing the above mentioned natural gas distribution companies documenting AES-PA's compliance with the bonding requirement at 66 Pa. C.S. § 2208(c) for each of the natural gas distribution companies. AES-PA did not provide documentation to evidence its compliance with the Section 2208(c) bonding requirement as directed in the Order granting its license.

AES-PA's parent company, Agway, Inc., and numerous subsidiaries filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code on October 1, 2002 with the United States Bankruptcy Court for the Northern District of New York. AES-PA was one of several subsidiaries that were not included in the filing. Subsequently, Agway, Inc. decided to sell its subsidiary AES-PA. The transfer of the AES-PA business to AES LLC took place on December 23, 2003, at which time AES LLC states that it began supplying gas to AES-PA's former customers.

In the January 2, 2004 petition, Suburban states that it had purchased substantially all of the assets of AES-PA and that the assets were transferred into an affiliate of Suburban called Suburban Natural Gas and Electricity LLC. Suburban further states that it was in the process of changing the name of its affiliate to AES LLC. Suburban Natural Gas and Electricity LLC's registration with Pennsylvania's Department of State was amended on January 7, 2004 to reflect the new name of AES LLC.

Suburban also states that all existing customer contracts of AES-PA would be honored and that all customers would receive written notification by U.S. mail. Notification was sent to customers in the March 2, 2004 to March 10, 2004 timeframe.

The Commission's Secretary assigned Docket No. A-125125 to the new entity, AES LLC, on February 18, 2004.

On February 23, 2004, AES LLC filed a license application at Docket No. A-125125, to demonstrate technical and financial fitness to render service under the transferred license, as required by the Commission's regulations at 52 Pa. Code §62.112(a). AES LLC states that upon the approval of this Petition, it proposes to provide natural gas supply services to residential and commercial customers in the Commonwealth of Pennsylvania, as a broker/marketer, aggregator and supplier of natural gas services.

It is important to note that a licensee must comply with, and be governed by, our Chapter 56 regulations. Thus, we deem it appropriate to reiterate certain items with respect to Chapter 56 of our regulations. Chapter 56 (52 Pa Code Chapter 56) is applicable to residential and small commercial accounts. A natural gas supplier cannot physically disconnect a customer from the distribution system, and thus, the service termination provisions of Chapter 56 are not applicable to natural gas suppliers. A natural gas supplier may seek to terminate its natural gas services through an appropriate written notice to the customer and the local distribution company. The customer can then attempt to repair its relationship with the natural gas supplier, seek a new natural gas supplier, or default to the natural gas distribution company's service tariffed rates in accordance with the local distribution company's obligations under Section 2207(a), 66 Pa. C.S. §2207(a). The customer would only be disconnected from the distribution system pursuant to Chapter 56 if the customer failed to meet its obligations to the natural gas distribution company or the

natural gas supplier which has been designated by the Commission as the supplier of last resort.

Additionally, we take this opportunity to once again remind the licensee that its officers, representatives and employees have agreed to abide by all Commission regulations, procedures and orders, including Emergency Orders which may be issued verbally, or in writing during any emergency situations that may develop from time-to-time in the course of doing business in Pennsylvania.

AES LLC has provided an affidavit regarding proofs of publication in the Pennsylvania newspapers as required by the Commission to provide service in the following local distribution company's service territories: Columbia Gas of Pennsylvania, Inc. and The Peoples Natural Gas Company.

Regarding the financial and technical fitness requirements of the license application, AES LLC submitted the September 27, 2003 10K Report for Suburban Propane Partners, L.P., the limited partner of AES LLC's parent company Suburban; as well as unaudited pro forma condensed combined financials for Agway Energy Group and Suburban Propane Partners LP.

Section 2208 (c) (1), 66 Pa. C.S. § 2208(c) (1), provides that a natural gas supplier license shall not be issued unless the applicant furnishes a bond or other security in a form and amount to ensure its financial responsibility. The criteria used to establish the form and amount of the bond or other security shall be set forth in the natural gas distribution company's restructuring filing. The amount and form of the bond or other security may also be mutually agreed to between the natural gas distribution company and the natural gas supplier. Section 2208 also provides that should the parties fail to achieve an agreement, then the form and amount of bond or other financial security "shall be determined by criteria approved by the Commission."

As previously stated, AES-PA did not provide documentation to evidence its compliance with the Section 2208(c) bonding requirement as directed in the Order granting its license, adopted by the Commission on December 2, 1999. However, in its present license application, AES LLC has provided documentation to evidence its compliance with the Section 2208(c) bonding requirement for the following natural gas distribution companies: Columbia Gas of Pennsylvania, Inc. and The Peoples Natural Gas Company. Therefore, we believe that it is appropriate to limit the transferred license to the service territories of Columbia Gas of Pennsylvania, Inc. and The Peoples Natural Gas Company.¹

AES LLC notified the customers of AES-PA concerning the transfer of accounts from AES-PA to AES LLC, advertised in the newspapers appropriate for its license application and served its license application on the appropriate state agencies, Columbia Gas of Pennsylvania, Inc. and The Peoples Natural Gas Company. Therefore, we believe that the transfer of the license from AES-PA to AES LLC and the abandonment of AES-PA's license at Docket No. A-125036 will have no impact on the public, natural gas distribution utilities or suppliers of last resort. Accordingly, the Commission will waive the provisions of the Interim Guidelines Regarding Notification by a Natural gas Supplier of Operational Changes Affecting Customer Service and Contracts, at Docket No.M-000001343. Additionally, because the transfer of the assets and the customers of AES-PA to AES LLC occurred December 23, 2003, the Commission will waive the notification provisions of Title 52, Chapter 62, Subchapter D, Section 62.112, regarding written individual notice to customers at approximately 90 days and 60 days preceding the effective date of an abandonment; **THEREFORE,**

¹ In an April 28, 2004 communication, AES states that AES-PA only had customers in the territories of Columbia Gas of Pennsylvania, Inc. and The Peoples Natural Gas Company when Suburban bought the assets of AES-PA.

IT IS ORDERED:

1. That the Petition to Transfer a Natural Gas Supplier License filed by Suburban Propane LLC on January 2, 2004 is hereby granted.

2. That the application of Agway Energy Services, LLC, is hereby approved.

3. That a license be issued authorizing, Agway Energy Services, LLC, the right to being to offer, render, furnish or supply natural gas supply services to the public within the following local distribution company service territories within the Commonwealth of Pennsylvania: Columbia Gas of Pennsylvania, Inc. and The Peoples Natural Gas Company.

4. That the Natural Gas Supplier license held by Agway Energy Services-PA, Inc. at Docket No. A-125036 is hereby cancelled.

5. That the notification provisions at Title 52, Chapter 62, Subchapter D, Section 62.112, regarding written individual notice to customers at approximately 90 days and 60 days preceding the effective date of an abandonment are waived consistent with the discussion in this Order.

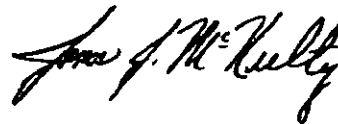
6. That notification provisions of the Interim Guidelines Regarding Notification By a Natural Gas Supplier of Operational Changes Affecting Customer Service and Contracts, at Docket No. M-00001343 (Interim Guidelines), are waived consistent with the discussion in this Order.

7. That the Secretary shall strike Agway Energy Services-PA, Inc.'s name from all active utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administrative Services.

8. That a copy of this Order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, the Department of Revenue, Bureau of Corporation Taxes and all natural gas distribution companies.

9. That these proceedings, at Docket No. A-125125 and A-125036F2000, be closed.

BY THE COMMISSION,



James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: May 7, 2004

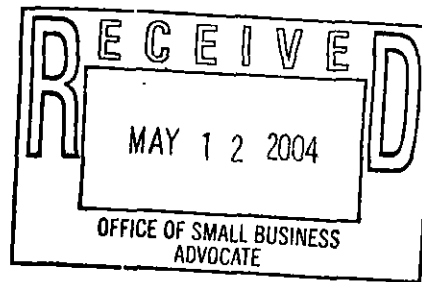
ORDER ENTERED: MAY 10 2004

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this _____ day of _____, 20__,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of an Order an official Commission document entered, issued, or otherwise promulgated under date of May 10, 2005 at Docket No.A-125125 ETAL on behalf of:

OFFICE OF SMALL
BUSINESS ADVOCATE
COMMERCE BLDG STE 1102
300 NORTH SECOND STREET
HARRISBURG PA 17101



Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
KEYSTONE BUILDING 2ND FLOOR
400 NORTH STREET
Harrisburg, PA 17105-3265

RECEIVED
2004 MAY 19 PM 1:57
SECRETARY'S BUREAU

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 24th day of May, 2004,


the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of an Order an official Commission document entered, issued, or otherwise promulgated under date of May 10, 2005 at Docket No.A-125125 ETAL on behalf of:

OFFICE OF CONSUMER ADVOCATE
FORUM PLACE
555 WALNUT STREET 5TH FLOOR
HARRISBURG PA 17101-1921

SECRETARY'S BUREAU

2004 MAY 26 PM 4:13

RECEIVED



Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
KEYSTONE BUILDING 2ND FLOOR
400 NORTH STREET
Harrisburg, PA 17105-3265