to be published 6-19-04

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

IN REPLY PLEASE
REFER TO OUR FILE

June 9, 2004

Mary Jane Phelps, Director
Pennsylvania Code & Bulletin
Room 647, Main Capitol Building
Harrisburg, PA 17120

DOCKETED
JUN 15 2004

Re: Notice
Investigation into Competition in the
Natural Gas Supply Market
Docket No. I-00040103

DOCUMENT
FOLDER

Dear Ms. Phelps:

Enclosed please find two (2) copies of the Commission's order in the above-captioned proceeding. The Commission requests that this order be published in its entirety as a notice in the Pennsylvania Bulletin.

Very truly yours,

Veronica A. Smith
Executive Director

Enclosure

cc: Regulatory Coordinator DelBiondo
Docketing

SEC
STAND ENERGY
CORPORATION

ORIGINAL

DOCKETED
AUG 18 2004

SECRETARY'S BUREAU
04 AUG -2 AM 9:08

1077 Celestial Street • Rookwood Bldg. • Suite 110
Cincinnati, Ohio 45202-1629
(513) 621-1113
(800) 598-2046
(513) 621-3773 Fax

July 29, 2004

Mr. James J. McNulty
Secretary
Commonwealth of Pennsylvania
Pennsylvania Public Service Commission
P.O. Box 3265, Harrisburg, PA 17105-3265

DOCUMENT

Dear Mr. McNulty, ,

Stand Energy Corporation was granted a license to become a natural gas supplier in Pennsylvania in September 2002 and began serving customers in the first quarter of 2003. Stand is not a supplier to the residential and small commercial market. In response to your letter of May 28, 2004 and Docket No. I-00040103 we submit the following information as asked in Annex A.

		Pennsylvania Customer Data				
	Columbia of Pennsylvania		Dominion Peoples		Equitable	
Period	Customers	Volume	Customers	Volume	Customers	Volume
		Dth		Dth		Dth
Jan-Mar 2003	1 commercial	2,060				
Apr-Jun-2003	1 commercial	866				
Jul-Sep-2003	1 commercial	235				
Oct-Dec-2003	3 commercial	18,577	1 commercial	13,938	1 commercial	136
Jan-Mar-2004	3 commercial	53,315	1 commercial	40,728	1 commercial	500
Apr-Jun-2003	3 commercial	32,302	1 commercial	20,673	1 commercial	250

In response to question number 3, Stand Energy Corporation has not received any complaints or disputes filed by customers.

Sincerely,
Mark T. Ward

Mark T. Ward
V.P. Regulatory Affairs

90

Philadelphia Gas Works
Gregory J. Stunder
Senior Attorney

800 W. Montgomery Avenue, Philadelphia, PA 19122
Telephone: (215) 684-6878 – Fax (215) 684-6798
Email: greg.stunder@pgworks.com

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August 6, 2004

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCUMENT

VIA EXPRESS MAIL

James J. McNulty
Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: **Investigation into Competition in the Natural Gas Supply Market**
Docket No. I-00040103

Dear Secretary McNulty:

Enclosed for filing, please find an original and ten copies of the answers to the questions presented in Annex A of the Commission's May 27, 2004 Order in the above-referenced matter. Also enclosed is an electronic version of the answer on a diskette

If you have any questions, please contact me.

Respectfully submitted,

Gregory J. Stunder

Enclosures

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Investigation into Competition in the Natural Gas Supply Market

Docket No. I-00040103

Responses to Questions in Annex A of May 27, 2004 Order

ORIGINAL

Questions:

ANNEX A

Natural Gas Distribution Companies

Each natural gas distribution company is directed to provide specific information about its system.

(1) For each quarter of the years 1999 to 2004, provide the following:
- (a) Number of natural gas suppliers operating on its distribution system;
- (b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers;
- (c) Volume of natural gas transported on its distribution system;
- (d) Volume of natural gas transported for suppliers on its distribution system.
- (e) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue competition-related issue.

(2) Provide the following information about security requirements that natural gas suppliers are required to maintain for licensure (66 Pa. C.S. § 2208(c)(1)(i)):
- (a) Security requirement as posted in the distribution company's initial supplier tariff.
- (b) Each change that was made to this security requirement to date.

Responses:

(1) (a), (b), (c), (d) & (e): Please see attached spreadsheet.

(2) (a): Please see attached excerpt from the Company's supplier tariff.

(2) (b): The security requirement has not changed to date.

Investigation into Competition in the Natural Gas Supply Market

Docket No. I-00040103

ANNEX A
Natural Gas Distribution Companies

Each natural gas distribution company is directed to provide specific information about its system.

(1) For each quarter of the years 1999 to 2004, provide the following:

(a) Number of natural gas suppliers operating on its distribution system;
(b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers;
(c) Volume of natural gas transported on its distribution system;
(d) Volume of natural gas transported for suppliers on its distribution system.
(e) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue competition-related issue.

		(1)(a)	(1)(b)	(1)(c) Mcf	(1)(d) Mcf	(1)(e)
1999	**1st Qtr**	0	0	34,000,493	0	0
	2nd Qtr	0	0	13,299,266	0	0
	3rd Qtr	0	0	9,429,525	0	0
	4th Qtr	0	0	23,378,017	0	0
2000	**1st Qtr**	0	0	34,924,691	0	0
	2nd Qtr	0	0	13,706,023	0	0
	3rd Qtr	0	0	9,532,609	0	0
	4th Qtr	0	0	26,195,443	0	0
2001	**1st Qtr**	0	0	31,005,818	0	0
	2nd Qtr	0	0	10,370,340	0	0
	3rd Qtr	0	0	8,550,435	0	0
	4th Qtr	0	0	19,226,633	0	0
2002	**1st Qtr**	0	0	28,752,727	0	0
	2nd Qtr	0	0	11,658,172	0	0
	3rd Qtr	1	0	8,702,389	17,585	0
	4th Qtr	2	0	25,816,297	144,659	0
2003	**1st Qtr**	2	0	35,536,752	127,951	0
	2nd Qtr	2	0	12,346,226	94,473	0
	3rd Qtr	2	0	7,438,011	90,852	0
	4th Qtr	2	0	21,508,059	151,463	0
2004	**1st Qtr**	2	0	32,289,628	222,920	0
	2nd Qtr	2	0	10,545,848	186,189	0

(1)(a) Natural gas suppliers operating on PGW's distribution system supply interruptible customers only

11. FINANCIAL SECURITY

11.1. A Supplier shall provide financial security to ensure that the Company is able to receive, without undue delay, funds or other forms of remuneration sufficient to meet the financial consequences of a Supplier's failure to perform its Natural Gas Supply Service obligations hereunder. Company may also use such forms of financial security to ensure the ability of a Supplier to pay the penalties authorized by this Supplier Tariff.

11.2. Financial security shall be provided in a form that is acceptable to Company. Acceptable forms of financial security include, but are not limited to, cash deposits, performance bonds and letters of credit (hereinafter, "Surety"). Company, at its discretion, may not require a credit review if a Supplier has obtained a license to provide Natural Gas Supply Services to retail customers from the PUC within one (1) year.

11.3.Unless Company otherwise agrees, the minimum level of financial security, in whatever form, shall be no less than the total of the following:

11.3.A.

11.3.A.1. The Company's exposure for gas forwarded to the Supplier based on a design winter,

11.3.A.2. Pipeline demand charges in the event of a Supplier default, and

11.3.A.3. The Company's exposure related to honoring the Supplier's contract price within a billing period.

11.3.B.Each of these components are detailed below:

11.3.B.1. Forwarded gas component: [(projected Supplier customer pool storage volumes for Nov.-March based on design winter) x (most recent Company 1307(f) filing average delivered commodity cost for Nov.-March)].

11.3.B.2. Pipeline capacity demand charges component: [DCQ x 90 days x (most recent Company 1307(f) filing pipeline demand charges)].

11.3.B.3. Interim billing period component: [Jan.'s volume x 30 days x 10% assumed difference in Supplier's contract price to the Company's commodity cost)].

11.4 In addition to the above, a Supplier shall provide financial security, in the form of a performance bond payable upon order of the Commission or payable directly to the Commission, in an amount that is projected to be necessary to provide reimbursement to residential customers who may be owed supplier funds (including deposits, prepayments or restitution) in the event that a Supplier exits the market. The level of the performance bond shall be established in consultation with the Commission or the Pennsylvania Office of Consumer Advocate. A Supplier may seek a waiver from the Commission of the amount and form of the security The Commission shall hold and supervise this bond.

MXENERGY
The power of choice

Executive Office
20 Summer Street
Stamford, CT 06901
Phone: 203 356 1318
Fax: 203 425 9562

Customer Care Center
10010 Junction Drive, Suite 104-S
Annapolis Junction, MD 20701
Phone: 800 785 4373
240 456 0505
Fax: 240 456 0510

Energy Supply & Operations
1255 Bound Brook Road
P. O. Box 491
Middlesex, NJ 08846
Phone: 732 805 0300
Fax: 732 805 4044

Commercial Marketing
100 South 4th Street
Martins Ferry, OH 43935
Phone: 740 633 6220
Fax: 740 633 6221

feedback@mxenergy.com

August 9, 2004

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Investigation into Competition in the Natural Gas Supply Market.

Dear Mr. McNulty: I-00040103

Attached are an original, ten (10) copies, and one diskette of the answers to the questions appearing in Annex A. We have included the following:

(1) Number of MxEnergy customers (by class) for each distribution system on which MXEnergy operates;

(2) Volume of natural gas delivered to customers (by class) on each system on which MXEnergy operates; and

(3) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue competition-related issue.

If you have any questions concerning the information enclosed, I can be reached Monday through Friday, from 8 a.m. to 6 p.m. at 203-356-1318.

Sincerely,

Susan K. Jackson

Susan K. Jackson,
General Counsel

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MXENERGY HISTORICAL COMPLAINT DATA
FIRST QUARTER, 1999 THROUGH SECOND QUARTER, 2004

Year	Quarter	Number of customer complaints	Slamming/ unauthorized change of suppliers	Changing suppliers	Billing confusion	Billing error	Other	Quarter totals
1999	1Q		-	-	-	-	-	-
	2Q		-	-	-	-	-	-
	3Q		-	-	-	-	-	-
	4Q	0	-	-	-	-	-	-
2000	1Q		-	-	-	-	-	-
	2Q		-	-	-	-	-	-
	3Q		-	-	-	-	-	-
	4Q	0	-	-	-	-	-	-
2001	1Q		-	-	-	-	-	-
	2Q		-	-	-	-	-	-
	3Q		-	-	-	-	-	-
	4Q	9	3	-	-	-	6	9
2002	1Q		1	-	-	-	2	3
	2Q		2	-	-	-	1	3
	3Q		1	-	2	-	-	3
	4Q	10	-	-	1	-	-	1
2003	1Q		3	-	4	1	-	8
	2Q		1	-	-	-	-	1
	3Q		1	-	-	-	2	3
	4Q	17	-	2	2	-	1	5
2004	1Q		5	-	3	-	7	15
	2Q	26	7	-	1	-	3	11
Max/Total		62	24	2	13	1	22	62

MXENERGY HISTORICAL CUSTOMER DATA
VOLUME IN CCF THROUGH CPA DISTRIBUTION SYSTEM

Year	Quarter	Number of active residential customers	Number of active commercial customers	Volume of active residential customers	Volume of active commercial customers	Total number of customers	Total volume of customers
1999	1Q	988	2	516,511	1,959	**990**	**518,470**
	2Q	2,821	66	236,569	5,200	**2,887**	**241,769**
	3Q	15,954	286	869,190	23,738	**16,240**	**892,928**
	4Q	28,923	438	8,011,543	211,185	**29,361**	**8,222,728**
2000	1Q	35,433	501	18,467,685	431,670	**35,934**	**18,899,355**
	2Q	35,887	504	6,567,077	135,301	**36,391**	**6,702,378**
	3Q	36,292	505	2,272,122	54,621	**36,797**	**2,326,743**
	4Q	37,185	507	9,628,809	219,134	**37,692**	**9,847,943**
2001	1Q	37,314	506	21,143,137	526,571	**37,820**	**21,669,708**
	2Q	37,239	506	7,048,336	154,489	**37,745**	**7,202,825**
	3Q	35,288	476	2,173,351	57,235	**35,764**	**2,230,586**
	4Q	33,950	493	7,598,276	199,676	**34,443**	**7,797,952**
2002	1Q	30,427	466	14,152,874	388,754	**30,893**	**14,541,628**
	2Q	28,372	444	6,229,534	160,582	**28,816**	**6,390,116**
	3Q	27,044	402	1,613,281	46,339	**27,446**	**1,659,620**
	4Q	26,079	412	7,322,883	205,035	**26,491**	**7,527,918**
2003	1Q	24,478	400	14,693,393	415,350	**24,878**	**15,108,743**
	2Q	23,125	368	4,531,817	112,073	**23,493**	**4,643,890**
	3Q	21,923	334	1,337,884	125,528	**22,257**	**1,463,412**
	4Q	20,887	300	4,192,377	102,720	**21,187**	**4,295,097**
2004	1Q	20,009	291	11,154,623	292,780	**20,300**	**11,447,403**
	2Q	20,668	349	3,680,758	98,307	**21,017**	**3,779,065**

MID AMERICAN
NATURAL
RESOURCES, INC.

2005 West 8th Street • Erie, PA 16505 • 814-455-2761 • FAX 455-3153 • E-mail: info@manrenergy.com

August 10, 2004

ORIGINAL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Mr. McNulty,

Enclosed you will find the information requested in your letter dated May 28, 2004, File Number I-00040103.

Mid American Natural Resources, Inc. is a gas supplier and the information enclosed answers the questions found under Natural Gas Suppliers. Eleven originals and a CD with the same information have been enclosed.

Sincerely,

Nancy Nielsen

Nancy Nielsen
Controller

Enclosure

DOCUMENT

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AUG 12 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

132

MID AMERICAN NATURAL RESOURCES, INC.

2005 West 8th Street • Erie, PA 16505 • 814-455-2761 • FAX 455-3153 • E-mail: info@manrenergy.com

RE: INFORMATION REQUESTED BY THE COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
FILE NUMBER I-00040103

QUARTER OF THE YEAR	NO. OF CUSTOMERS	DISTRIBUTION SYSTEM	VOLUME DELIVERED	CUSTOMER COMPLAINTS
MARCH 31, 1999	93	NATIONAL FUEL	798,650	0
JUNE 30, 1999	77	NATIONAL FUEL	391,315	0
SEPTEMBER 30, 1999	90	NATIONAL FUEL	318,320	0
DECEMBER 31, 1999	75	NATIONAL FUEL	521,258	0
MARCH 31, 2000	67	NATIONAL FUEL	765,328	0
JUNE 30, 2000	70	NATIONAL FUEL	394,178	0
SEPTEMBER 30, 2000	70	NATIONAL FUEL	306,515	0
DECEMBER 31, 2000	89	NATIONAL FUEL	693,855	0
MARCH 31, 2001	130	NATIONAL FUEL	989,459	0
JUNE 30, 2001	117	NATIONAL FUEL	532,440	0
SEPTEMBER 30, 2001	75	NATIONAL FUEL	588,856	0
DECEMBER 31, 2001	134	NATIONAL FUEL	947,515	0
MARCH 31, 2002	155	NATIONAL FUEL	1,354,723	0
JUNE 30, 2002	152	NATIONAL FUEL	732,087	0
SEPTEMBER 30, 2002	153	NATIONAL FUEL	1,510,758	0
DECEMBER 31, 2002	153	NATIONAL FUEL	1,721,088	0
MARCH 31, 2003	153	NATIONAL FUEL	2,170,975	0
JUNE 30, 2003	153	NATIONAL FUEL	805,806	0
SEPTEMBER 30, 2003	155	NATIONAL FUEL	602,896	0
DECEMBER 31, 2003	144	NATIONAL FUEL	1,400,858	0
MARCH 31, 2004	119	NATIONAL FUEL	1,842,309	0
JUNE 30, 2004	148	NATIONAL FUEL	1,686,373	0

ORIGINAL

THE MACK SERVICES GROUP

Putting our energies to work for you. ™

August 20, 2004

Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Attention: Secretary James J. McNulty

DOCUMENT FOLDER

Regarding: Docket No. I-00040103

04 AUG 25 AM 9:36
SECRETARY'S BUREAU

Dear Secretary McNulty,

Please find enclosed written comments from The Mack Service Group on the current level of competition in the natural gas industry as directed in Docket I-00040103.

I have submitted an original and 10 copies of the written testimony. An electronic version is also enclosed as requested.

Also enclosed is an original and 10 copies of market information requested in Annex A of the order issued on May 27,2004. An electronic version of this information is also enclosed.

Please contact me at 610-644-0562 or by mail if further information is required.

Sincerely,

Scott R. McCorry
Vice President

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45 Branch Avenue • P.O. Box 557 • Berwyn, PA 19312-0557 • 610-644-0562 / 1-888-570-6225 / Fax 610-889-1369
130 S Church St, Parkesburg PA 19365-1250 • 610-857-5525 / 1-888-384-7587 / Fax 610-857-2373
www.mackservicesgroup.com

ORIGINAL

DOCKETED

SEP 0 3 2004

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

INVESTIGATION INTO COMPETITION IN NATURAL GAS SUPPLY MARKET

DOCKET NO. I- 00040103

Comments by The Mack Services Group

The Mack Service Group submits these comments to assist the Pennsylvania Public Utility Commission investigation into the state of competition in the natural gas supply market. The Mack Services Group had 4 years of experience in marketing natural gas to customers in the PECO service territory from 1997 until 2003. Our customers were served under the transportation rates in effect during this period for large natural gas users consuming more than 5,000 Mcf per year. The Mack Services Group currently holds a natural gas supplier license number A-125017. Our desire is to enter the residential and small commercial market in the future within the PECO service territory. Since we have no first hand knowledge of other LDC tariffs or policies, all of our comments going forward relate to tariff and policies within the PECO service territory only.

Level of Competition in PA's Natural Gas Service Market

The level of competition in Pennsylvania's natural gas service market is virtually nonexistent. According to the Office of Consumer Advocate's shopping guide updated as of August 3rd, there are only seven natural gas suppliers serving residential customers in the entire state and four of these suppliers are in the Columbia Gas territory alone. That leaves only three other suppliers doing business in the rest of the state. To further support the lack of competition in Pennsylvania, only 7% of residential customers have switched to an alternative supplier statewide according to the Office of Consumer Advocate's switching statistics as of July 1, 2004. And 87% of these switching customers are concentrated in the Columbia Gas and Dominion Peoples territories.

The Effect of the Price of Natural Gas on Competition

We see the recent high and volatile prices as ultimately helping competition in regards to marketers being able to successfully market against the incumbent LDC. As prices have risen, we see more consumer interest in price stability than in the past. Since LDC's within Pennsylvania charge consumers what is basically an estimated floating market price, marketers can fill a void by offering consumers fixed price contracts. In the past several years, natural gas prices charged by the LDC's would barely move from year to year. Selling consumers a fixed price contract in those years would have proved more difficult than today.

The effect of the price of natural gas on competition is minimal as it relates to price comparisons with other suppliers but not with the natural gas distribution company. The cost of gas will ultimately be passed on to the customer, whether they are with a natural gas distribution company or whether they are with a supplier. The only issue here is timing and cost structure. Due to the fact that distribution companies must file all rate changes with the PUC, there is a delay before the distribution companies can pass along these rate changes to their customers. For example, if a distribution company under estimates their purchased gas costs for the first quarter, they will pass this short fall along to their customers in the form of higher rates in a later quarter. The supplier, on the other hand, buys gas on the wholesale market and would have to charge the market rate for that

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gas as it is incurred and therefore pass along any gas cost increase to the customer as it happens. So you could have a scenario where the distribution company is charging a lower price to their customers during the first quarter of the year than the supplier. But when their rate increase takes effect later in the year, the distribution company could then be charging a higher price to their customers than the supplier. We believe that LDC's should be required to change prices on a monthly basis.

The other major flaw with the market related to price regardless of the timing issues mentioned above is the price charged by the LDC. Marketers cannot and will never be able to compete with the LDC that purchases gas in large quantities on the open market and resells it to consumers with no retail markup on it. The LDC must be removed from the merchant function in order to have a truly competitive market, or at least have a true retail price that encompasses all the true costs of marketing natural gas.

Increases in the cost of gas will also have a direct effect on the amount of credit that is required by a supplier. As the cost of gas increases, so will the amount of credit required from the supplier. See effect of supplier financial security requirements on competition below.

The Effect of Consumer Education on Competition

Presently, there has been very little done to educate the consumer because, as noted above, there are only a few suppliers actually doing business within the state. Limited competition means that there is not going to be a lot of marketers vying for customers and hence, trying to educate and inform them. It would not make sense for suppliers, distribution companies, or the Public Utility Commission to spend money to inform and educate the public about gas choice until the under lying problems of customer choice have been addressed first.

The effect of supplier financial security requirements on competition

The effect of supplier financial security requirements is a very significant issue for large and small companies alike. It can be a barrier to entry for smaller suppliers such as The Mack Services Group that do not carry the credit ratings of large publicly held corporations. Large corporations also have to determine if the returns actually justify the amount of credit needed to invest in the retail natural gas business.

The Mack Services Group had previously marketed natural gas in the PECO Energy service territory from 1997 to early 2003. With the credit crunch brought on partially by the collapse of Enron Corporation, we had to withdrawal from the market place in 2003. We have recently looked at re-entering the residential and small customer market within the PECO service territory.

We have looked at the credit requirements to enter the PECO service territory to serve a very small number of customers. Our calculations below make the following assumptions:

We estimate that approximately 258 residential accounts in the PECO service territory would equal 100 Dth of firm pipeline capacity being assigned to our company by the LDC. (PECO Energy)

Our estimate for the amount of credit that would be required to be posted to serve the above mentioned 258 residential customers fall into three categories:

1. Surety or bank letter of credit to be posted with LDC (PECO in this case)
2. Bank letter of credit to be posted to two major pipeline companies (TETCO and Transco)
3. Bank letter of credit to be posted to a natural gas supplier.

Total Cost of LDC surety requirement	$61,818.00
Total Cost of Supplier/Pipeline requirement	$69,663.00
Total amount of credit required	$131,481.00

In summary, the amount of credit required to serve 258 residential accounts within the PECO service territory could total more than $131,000.00. A marketer serving 2,000 residential customers could potentially be required to post $1,000,000.00 in credit. The credit requirements are definitely a barrier to entry for many smaller companies wishing to enter this market place. The details of the above credit calculation is attached as Exhibit 1.

We believe that allowing marketers to pledge their accounts receivable balances to the LDC could help reduce the credit requirements detailed above. The requirement that marketers post collateral to the LDC in step B under surety calculation for PECO for pipeline charges appears redundant since marketers will have collateral already posted with the interstate pipeline companies.

The effect of natural gas distribution company penalties and other cost on competition

The Mack Services Group does not see any LDC penalties or other costs associated with competition rules that have would have a material impact on customer choice in the PECO service territory. We do not offer an opinion on the other Pennsylvania LDC's, as we do not have knowledge of their tariffs.

Discuss any avenues, including legislative, for encouraging increased competition in Pennsylvania

We believe that true competition for residential and small commercial customers will not flourish in Pennsylvania or any state until the LDC's are removed from the merchant function.

This could be accomplished by requiring the LDC's to transfer all customers to marketing companies similar to what was done in the State of Georgia. Marketing companies could bid to be the supplier of last resort. The supplier of last resort would have additional oversight by the Public Utility Commission to insure protection to all consumers.

A secondary option to accomplish this would be a requirement that LDC's transfer all of their natural gas customers to a truly independent marketing affiliate. The marketing affiliate would procure all gas supplies and resell at a true market rate. This market rate would include all costs associated with marketing natural gas including a profit margin. The name of the marketing affiliate would have to be different than the name of the local LDC. This entity could also be the supplier of last resort.

If the Commission feels the LDC must be the supplier of last resort (SOLR), it is imperative that the SOLR rate be a true market rate. This rate must include a retail adder that encompasses cost such as marketing, customer service, call centers, and billing etc. The rate also should reflect the actual cost of buying natural gas on a monthly basis and not be an estimated future cost of natural gas.

Respectfully submitted,

Scott R. McCorry, Vice President
The Mack Service Group
P.O. Box 557
Berwyn PA 19312
610-644-0562

Exhibit 1

Surety Calculation for PECO

Assumptions:	**100 ADCQ**	**100 ADCQ represents approximately 258 average residential accounts**	
A.	Borrowed Gas component:	{(Projected volumes for Nov-Mar) x (10% adjustment)-(Nov-Mar ADCQ) x (Commodity cost Nov - Mar)}	
	1 average residential account	Projected Volumes Nov - Mar	80.2
		Adjusted for colder than normal winter	110.00%
		Nov - Mar ADCQ	58.1
		Most recent 1307 F filed gas cost	6.50
		Total credit per residential account required (80.2 x 110%)-58.1 x 6.50	195.78
	Subtotal Step A	Multiply by 258 customers	**$50,511.24**
B.	Pipeline Demand Charges	(ADCQ x 90 days * daily cost of pipeline demand	
		ADCQ	100
		Number of days	90
		Average Daily cost of pipeline demand charges ($17.00 dth/90 days)	$0.57
		Total Credit per 100 Dth of ADCQ	$5,100.00
	Subtotal Step B		**$5,100.00**
C.	Interim billing period:	(Jan's volume x 30 days x 10% assumed difference of marketers price compared to PECO's price	
		Since its estimated that no difference will exist between PECO and our price, this step in most cases would result in a zero calculation. To be conservative, we will assume that we will have a fixed price .50 cents per Mcf lower than what PECO estimates future gas prices to be.	
		Jan's Volume in Mcf (80.2 / 5 months)	16.04
		Number of days in formula	30
		Percentage difference between our price and PECO's (.50 cents per Dth * 10%)	$0.05
		Total Credit per residential account	$24.06
	Subtotal Step C	Total credit required for 258 customers	**$6,207.48**
Total		**Grand Total Credit required for PECO surety /LOC calculation**	**$61,818.72**

Wholesale Supplier and Pipeline Calculation

Assumptions: **100 ADCQ - equals approx. 258 residential customers**

A. **Wholesale Gas Supplier** - LOC for estimated 90 days of winter usage

Assume gas costs of $6.50 per Mcf

100 Dths per day X 90 days x $6.50 =	**$58,500.00**

B. **Transco** - Interstate Pipeline Company / LOC for estimated 90 days of pipeline demand charges

ADCQ	100
Number of days	90
Average Daily cost of pipeline demand charges ($12.71 dth/90 days)	$0.42
Total Credit per 100 dth of ADCQ	**$3,813.00**

C. **TETCO** - Interstate Pipeline Company / LOC for estimated 90 days of pipeline demand charges

ADCQ	100
Number of days	90
Average Daily cost of pipeline demand charges ($24.50 dth/90 days)	$0.82
Total Credit per 100 Dth of ADCQ	**$7,350.00**

Total Pipeline/Supplier Credit Required: **$69,663.00**

ORIGINAL

Annex A

The Mack Services Group served small to medium sized business customer during the period of 1999 to 2004 under transportation rates. No residential customers were served during this period. All volumes listed below were sold on the PECO Energy distribution system.

Question #1 and #2

Date	Volume (Dth's)	Number of customers
1st Quarter 1999	87,530	35
2nd Quarter 1999	77,799	35
3rd Quarter 1999	99,040	45
4th Quarter 1999	122,894	55
1st Quarter 2000	140,171	80
2nd Quarter 2000	94,462	80
3rd Quarter 2000	83,219	65
4th Quarter 2000	108,378	65
1st Quarter 2001	84,860	60
2nd Quarter 2001	58,170	50
3rd Quarter 2001	62,925	40
4th Quarter 2001	57,597	35
1st Quarter 2002	64,941	35
2nd Quarter 2002	52,377	35
3rd Quarter 2002	16,130	10
4th Quarter 2002	0	0
1st Quarter 2003	0	0
2nd Quarter 2003	0	0
3rd Quarter 2003	0	0
4th Quarter 2003	0	0
1st Quarter 2004	0	0
2nd Quarter 2004	0	0

Question #3 – There were no competition related issues or disputes regarding slamming, unauthorized change of supplier, or errors in billing for this period.

EQUITABLE GAS
Delivering Everyday Excellence SM

200 Allegheny Center Mall
Pittsburgh, PA 15212.5352
www.eqt.com

August 23, 2004

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
PO Box 3265
Harrisburg PA 17105-3265

RE: Docket No. I-00040103
Investigation into Competition in the Natural Gas Supply Market

Dear Mr. McNulty:

In accordance with the Commission's May 27, 2004 Order in Docket No. I-00040103, enclosed please find an original and ten (10) copies of the responses of Equitable Gas Company, a division of Equitable Resources ("Equitable"), to the questions propounded in Annex A of the Order. Also enclosed is a diskette with an electronic version of the responses.

Please also accept this letter as notification to the Commission that Equitable will not be filing written testimony in this proceeding.

If you have any questions please feel free to contact me at 412-395-3202.

Sincerely,

Dan Fru

Daniel L. Frutchey
Senior Vice President and General Counsel

RMN/jcm

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EQUITABLE GAS COMPANY

Responses to Annex A
Docket No. I-00040103
Investigation into Competition in the Natural Gas Supply Market

	(A) Number of Suppliers	Customers Residential	Customers (B) Commercial	Customers Industrial	(C) transported (MCF)	(D) Supplier transport	(E) Complaints/ disputes
1999							
1st quarter	23	53,603	5,903	163	20,183,983	9,760,563	7
2nd quarter	21	59,719	5,595	155	6,399,686	3,657,414	6
3rd quarter	22	21,481	4,987	159	4,197,980	2,539,773	4
4th quarter	23	20,867	5,124	161	12,916,914	5,436,894	2
2000							
1st quarter	22	20,492	5,092	157	18,526,128	7,507,420	5
2nd quarter	22	19,757	4,796	148	6,659,715	3,271,824	4
3rd quarter	18	18,867	4,574	147	4,306,794	2,418,099	4
4th quarter	17	19,099	3,781	124	17,974,292	7,206,666	5
2001							
1st quarter	15	18,911	3,929	131	21,634,066	8,142,614	11
2nd quarter	13	23,401	3,794	136	6,520,295	3,379,993	3
3rd quarter	11	27,081	3,734	134	4,715,567	2,968,119	2
4th quarter	10	24,507	3,831	132	12,329,330	5,649,786	4
2002							
1st quarter	10	24,370	3,816	134	19,901,913	8,901,356	12
2nd quarter	10	23,421	3,755	136	8,702,439	4,989,509	9
3rd quarter	9	22,665	3,658	137	5,572,060	3,782,170	0
4th quarter	12	21,935	3,710	134	15,740,665	6,843,648	5
2003							
1st quarter	12	21,483	3,705	100	24,470,957	10,103,629	1
2nd quarter	9	20,974	3,585	101	7,889,950	4,431,692	2
3rd quarter	10	20,498	3,462	133	5,099,792	3,473,605	0
4th quarter	10	20,444	3,368	135	15,367,493	7,119,428	0
2004							
1st quarter	10	20,359	3,358	135	23,519,823	10,151,131	0
2nd quarter	10	19,753	3,775	170	9,232,175	5,311,953	0

Open Flow Gas Supply corp

90 Beaver Drive, Suite 110B • P.O. Drawer J • DuBois, PA 15801-0297 • Telephone (814) 371-3800
Toll Free 1-888-634-4748 • FAX (814) 371-3858 • E-mail: openflow@adelphia.net

William R. Deter, Vice President – Corporate

August 23, 2004

John J. McNulty
Commonwealth of Pennsylvania
Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

ORIGINAL

DOCUMENT FOLDER

Reference: Investigation into Competition in the Natural Gas Supply Market, I-00040103

Dear Secretary McNulty:

Per the Pennsylvania Public Utility Commission order dated May 27, 2004, please find enclosed Open Flow Gas Supply Corporation's (Supplier License # A-125003) response to the request for information. I have enclosed for each quarter during the period 1999 to present the following information:

1. Number of customers (by class) for each distribution system on which Open Flow operates;

2. Volume of natural gas delivered to customers (by class) on each system Open Flow operates.

As far as customer complaints are concerned, Open Flow has not encountered any complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appears for natural gas from an alternative supplier. Open Flow has, however, encountered and corrected a few minor errors in billing over the past five-year period.

If you have any questions regarding this letter, please feel free to contact me at (814) 371-3800.

Sincerely,

William R. Deter
Vice President – Corporate

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enclosures

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SECRETARY'S BUREAU

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OPEN FLOW GAS SUPPLY CORPORATION

Quarterly summary of natural gas sales ("City Gate" Dth)

Year: 2004

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	6 mo. Dth Totals
National Fuel					
Churches					
Dth Volume:	11,194	1,941	n/a	n/a	13,135
Customer Count:	16	16	n/a	n/a	
Small Commercial-UL					
Dth Volume:	9,845	3,710	n/a	n/a	13,555
Customer Count:	25	25	n/a	n/a	
Large Commercial					
Dth Volume:	434,548	139,072	n/a	n/a	573,620
Customer Count:	251	252	n/a	n/a	
Small Volume Industrial					
Dth Volume:	642	341	n/a	n/a	983
Customer Count:	2	2	n/a	n/a	
Intermediate Volume Industrial					
Dth Volume:	272,179	165,489	n/a	n/a	437,668
Customer Count:	80	80	n/a	n/a	
Large Volume Industrial					
Dth Volume:	91,230	108,460	n/a	n/a	199,690
Customer Count:	6	6	n/a	n/a	
Large Industrial Service					
Dth Volume:	370,237	255,456	n/a	n/a	625,693
Customer Count:	3	3	n/a	n/a	
Columbia-PA					
Commercial Service					
Dth Volume:	5,303	0	n/a	n/a	5,303
Customer Count:	1	0	n/a	n/a	
Penn Fuel Gas					
Commercial Service					
Dth Volume:	0	0	n/a	n/a	0
Customer Count:	0	0	n/a	n/a	
Dominion Peoples					
Commercial Service					
Dth Volume:	0	0	n/a	n/a	0
Customer Count:	0	0	n/a	n/a	

OPEN FLOW GAS SUPPLY CORPORATION
Quarterly summary of natural gas sales ("City Gate" Dth)

Year: 2003

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Year Dth Totals
National Fuel					
Churches					
Dth Volume:	10,640	2,135	397	8,134	21,306
Customer Count:	16	16	16	17	
Small Commercial-UL					
Dth Volume:	9,714	3,650	2,841	6,805	23,010
Customer Count:	23	23	23	24	
Large Commercial					
Dth Volume:	480,818	157,197	96,953	316,274	1,051,242
Customer Count:	243	244	243	246	
Small Volume Industrial					
Dth Volume:	642	318	235	1,114	2,309
Customer Count:	2	2	2	3	
Intermediate Volume Industrial					
Dth Volume:	295,184	181,332	165,819	221,273	863,608
Customer Count:	78	78	79	80	
Large Volume Industrial					
Dth Volume:	107,066	104,993	100,677	96,454	409,190
Customer Count:	7	7	7	8	
Large Industrial Service					
Dth Volume:	414,114	282,320	272,411	342,165	1,311,010
Customer Count:	3	3	3	3	
Columbia-PA					
Commercial Service					
Dth Volume:	6,869	3,388	1,200	4,259	15,716
Customer Count:	1	1	1	1	
Penn Fuel Gas					
Commercial Service					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	
Dominion Peoples					
Commercial Service					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	

OPEN FLOW GAS SUPPLY CORPORATION

Quarterly summary of natural gas sales ("City Gate" Dth)

Year: 2002

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Year Dth Totals
National Fuel					
Churches					
Dth Volume:	2,238	610	125	5,318	8,291
Customer Count:	5	5	5	16	
Small Commercial-UL					
Dth Volume:	5,855	2,909	2,258	6,061	17,083
Customer Count:	20	19	19	21	
Large Commercial					
Dth Volume:	254,552	105,851	58,988	298,886	718,277
Customer Count:	146	145	141	241	
Small Volume Industrial					
Dth Volume:	296	193	219	341	1,049
Customer Count:	2	2	2	2	
Intermediate Volume Industrial					
Dth Volume:	183,790	152,563	132,649	230,669	699,671
Customer Count:	57	54	54	81	
Large Volume Industrial					
Dth Volume:	63,667	37,776	31,229	72,543	205,215
Customer Count:	4	4	3	5	
Large Industrial Service					
Dth Volume (includes United Refining):	473,342	423,227	368,810	388,544	1,653,923
Customer Count:	4	4	3	3	
Columbia-PA					
Commercial Service					
Dth Volume:	5,734	4,879	2,724	5,023	18,360
Customer Count:	1	1	1	1	
Penn Fuel Gas					
Commercial Service					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	
Dominion Peoples					
Commercial Service					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	

OPEN FLOW GAS SUPPLY CORPORATION
Quarterly summary of natural gas sales ("City Gate" Dth)

Year: 2001

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Year Dth Totals
National Fuel					
Churches					
Dth Volume:	1,946	722	221	2,387	5,276
Customer Count:	4	6	6	6	
Small Commercial-UL					
Dth Volume:	7,350	3,135	2,569	4,944	17,998
Customer Count:	21	21	23	23	
Large Commercial					
Dth Volume:	262,818	88,780	55,053	183,977	590,628
Customer Count:	125	130	143	145	
Small Volume Industrial					
Dth Volume:	247	149	148	178	722
Customer Count:	1	1	1	1	
Intermediate Volume Industrial					
Dth Volume:	202,814	148,554	136,486	169,684	657,538
Customer Count:	49	49	53	53	
Large Volume Industrial					
Dth Volume:	82,631	44,698	32,063	59,304	218,696
Customer Count:	4	4	4	4	
Large Industrial Service					
Dth Volume:	451,164	336,608	278,231	335,661	1,401,664
Customer Count:	3	3	3	3	
Columbia-PA					
Commercial Service					
Dth Volume:	5,134	5,143	2,759	5,924	18,960
Customer Count:	1	1	1	1	
Penn Fuel Gas					
Commercial Service					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	
Dominion Peoples					
Commercial Service					
Dth Volume:	6,406	2,169	0	0	8,575
Customer Count:	1	1	0	0	

OPEN FLOW GAS SUPPLY CORPORATION
Quarterly summary of natural gas sales ("City Gate" Dth)

Year: 2000

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Year Dth Totals
National Fuel					
Churches					
Dth Volume:	1,890	473	208	1,586	4,157
Customer Count:	5	5	5	5	
Small Commercial-UL					
Dth Volume:	7,562	2,511	1,819	2,700	14,592
Customer Count:	25	17	19	16	
Large Commercial					
Dth Volume:	218,828	80,138	52,406	180,515	531,887
Customer Count:	128	125	127	124	
Small Volume Industrial					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	
Intermediate Volume Industrial					
Dth Volume:	187,480	131,856	116,879	153,812	590,027
Customer Count:	49	49	49	47	
Large Volume Industrial					
Dth Volume:	104,578	83,497	70,909	103,219	362,203
Customer Count:	6	6	6	6	
Large Industrial Service					
Dth Volume:	263,231	206,533	170,552	214,462	854,778
Customer Count:	2	2	2	2	
Columbia-PA					
Commercial Service					
Dth Volume:	7,274	4,898	5,017	8,368	25,557
Customer Count:	1	1	1	1	
Penn Fuel Gas					
Commercial Service					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	
Dominion Peoples					
Commercial Service					
Dth Volume:	0	270	2,877	7,020	10,167
Customer Count:	0	1	1	1	

OPEN FLOW GAS SUPPLY CORPORATION
Quarterly summary of natural gas sales ("City Gate" Dth)

Year: 1999

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Year Dth Totals
National Fuel					
Churches					
Dth Volume:	1,902	414	123	1,470	3,909
Customer Count:	5	5	5	5	
Small Commercial-UL					
Dth Volume:	5,082	2,248	1,800	5,574	14,704
Customer Count:	18	23	22	25	
Large Commercial					
Dth Volume:	208,590	67,141	42,774	170,494	488,999
Customer Count:	108	113	117	126	
Small Volume Industrial					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	
Intermediate Volume Industrial					
Dth Volume:	196,389	146,355	154,582	172,138	669,464
Customer Count:	53	54	54	50	
Large Volume Industrial					
Dth Volume:	89,574	67,675	63,021	82,994	303,264
Customer Count:	5	5	5	5	
Large Industrial Service					
Dth Volume:	181,925	138,476	169,225	210,427	700,053
Customer Count:	2	2	2	2	
Columbia-PA					
Commercial Service					
Dth Volume:	7,500	4,000	3,300	5,226	20,026
Customer Count:	1	1	1	1	
Penn Fuel Gas					
Commercial Service					
Dth Volume:	4,001	6,024	9,591	11,698	31,314
Customer Count:	17	22	25	25	
Dominion Peoples					
Commercial Service					
Dth Volume:	0	0	0	0	0
Customer Count:	0	0	0	0	

NiSource

Mark R. Kempic
Senior Attorney
Legal Department

650 Washington Road
Pittsburgh, PA 15228
(412) 572.7142
Fax: (412) 572.7162
mkempic@nisource.com

VIA OVERNIGHT MAIL

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

August 24, 2004

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17210-3265

RE: Investigation into Competition in the Natural Gas Supply Market
Docket I-00040103

DOCUMENT
FOLDER

Dear Secretary McNulty:

Enclosed please find the original and 11 copies of Columbia Gas of Pennsylvania, Inc.'s answers to the questions appearing in Annex A of the Commission's May 28, 2004 Order in the above-stated docket. Please docket the original and ten copies and date stamp the extra copy and return it to me in the enclosed envelope. As directed by the order, an electronic copy of Columbia's responses is also provided.

Columbia does not intend to submit written testimony at this time and as a result it will not be sponsoring testimony at the September 30, 2004 hearing. Columbia notes that a Secretarial Letter addressing the procedural aspects for this hearing is to be issued on or before September 10, 2004, and Columbia reserves all of its rights to participate in this proceeding in accordance with that Secretarial Letter.

As always, if you have any questions please call me at 724.416.6328 or e-mail me at mkempic@nisource.com.

Sincerely,

Mark Kempic

Mark Kempic

cc: T. Murphy
D. Haddad
S. Bardes-Hasson
K. Christman
E. Evans

Columbia Gas of Pennsylvania, Inc.
Docket No. I-00040103
Response to Question 1(a) - 1(e)

	No. Gas Suppliers	No. Resid (1) Customers	No. C/I Customers	DTH Vol. Trans On System	DTH Vol Trans for Choice Suppliers	Disputed for Slamming	Disputes for Chg Supplier	Disputes on Selection	Disputes for Billing Confus.	Disputed on Bill Errors	All other Disputes
First Qtr 1999	7	67,461	5,168	18,370,138	2,963,492	20	15	N/A	2	1	N/A
Second Qtr 1999	8	99,397	9,979	13,697,029	1,644,536	21	15	N/A	3	0	N/A
Third Qtr 1999	8	102,065	10,371	10,054,929	660,984	1	14	N/A	3	4	N/A
Fourth Qtr 1999	10	99,573	10,316	16,275,059	2,690,622	2	14	N/A	3	0	N/A
First Qtr 2000	11	100,681	10,285	26,503,441	6,117,877	4	8	N/A	5	5	N/A
Second Qtr 2000	11	100,338	10,030	14,200,715	2,201,765	5	7	N/A	0	7	N/A
Third Qtr 2000	11	95,100	9,778	9,910,432	702,916	30	4	N/A	2	3	N/A
Fourth Qtr 2000	11	90,619	9,454	17,343,207	3,308,743	0	5	N/A	5	9	N/A
First Qtr 2001	11	87,338	8,795	26,043,681	6,590,260	7	4	N/A	5	10	N/A
Second Qtr2001	11	90,691	9,018	12,765,094	2,345,607	5	6	N/A	6	10	N/A
Third Qtr 2001	11	100,469	9,286	9,508,744	682,712	5	6	N/A	4	6	N/A
Fourth Qtr 2001	10	104,413	9,675	14,153,570	2,679,399	23	33	N/A	37	36	N/A
First Qtr 2002	9	98,889	9,311	22,603,315	6,181,366	28	34	N/A	26	43	322
Second Qtr 2002	9	95,142	9,058	12,914,151	2,548,331	12	11	N/A	38	19	171
Third Qtr 2002	8	92,425	8,760	8,430,292	649,070	8	14	N/A	14	13	74
Fourth Qtr 2002	8	90,180	8,469	15,999,000	3,343,399	2	7	N/A	4	8	47
First Qtr 2003	8	86,988	8,283	23,834,924	5,893,649	5	4	N/A	9	7	81
Second Qtr2003	8	83,690	8,027	11,453,194	2,261,761	3	1	N/A	6	5	57
Third Qtr 2003	8	80,965	7,819	7,631,751	626,446	1	0	N/A	4	1	35
Fourth Qtr2003	7	79,908	7,766	14,413,181	2,876,554	2	2	N/A	4	4	71
First Qtr 2004	7	77,793	7,634	24,001,260	6,561,383	4	8	N/A	10	5	0
Second Qtr 2004	7	74,708	7,361	10,708,244	1,647,725	2	6	N/A	6	2	0

(1) These figures do not include customers on Columbia's Customer Assistance Program ("CAP"), even though Columbia aggregates the consumption requirements of its CAP customers and seeks to obtain competitive bids from licensed natural gas suppliers. Approximately 20,000 customers are presently participating in Columbia's CAP.
(2) N/A - Not available.

PG Energy
a subsidiary of Southern Union Company

August 24, 2004

DOCUMENT FOLDER

Mr. James J. McNulty,
Secretary
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265

Re: Docket No. I-00040103, Investigation into Competition in the Natural Gas Supply Market

Dear Mr. McNulty:

In response to the Pennsylvania Public Utility Commission's Order referenced in the above proceedings, PG Energy has prepared the attached document along with 10 copies and an electronic version on diskette.

The document details PG Energy's responses to the questions referenced in the Order as Annex A. All responses have been thoroughly reviewed and accurately represent the activities on the PG Energy System.

We look forward to working with the commission and stand ready to provide the information they need.

Sincerely,

Frank Rainey
Director Energy Utilization

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ONE PEI CENTER • WILKES-BARRE, PA • 18711-0601
PHONE: 570-829-8841 • FAX: 570-829-8914

Annex A
PG Energy's Responses

(1) (a) Number of Natural Gas Suppliers operating on its distribution system by quarter.

Year	Quarter	NGS
1999	1st	13
1999	2nd	11
1999	3rd	10
1999	4th	11
2000	1st	8
2000	2nd	6
2000	3rd	6
2000	4th	6
2001	1st	5
2001	2nd	5
2001	3rd	6
2001	4th	6
2002	1st	6
2002	2nd	6
2002	3rd	7
2002	4th	7
2003	1st	7
2003	2nd	7
2003	3rd	6
2003	4th	5
2004	1st	5
2004	2nd	5

Annex A
PG Energy's Responses

(1) (b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers.

		# of Customers			
Year	**Quarter**	**Residential**	**Commercial**	**Industrial**	**Total**
1999	1st	0	482	130	612
1999	2nd	0	486	132	618
1999	3rd	0	490	134	624
1999	4th	0	491	133	624
2000	1st	0	491	136	627
2000	2nd	0	488	134	622
2000	3rd	0	483	131	614
2000	4th	0	489	131	620
2001	1st	0	483	131	614
2001	2nd	0	478	131	609
2001	3rd	0	476	132	608
2001	4th	0	476	134	610
2002	1st	0	475	135	611
2002	2nd	0	474	134	608
2002	3rd	0	474	132	606
2002	4th	0	475	132	607
2003	1st	0	472	133	604
2003	2nd	0	468	131	599
2003	3rd	0	469	131	600
2003	4th	0	469	132	601
2004	1st	0	464	128	592
2004	2nd	0	459	126	585

Annex A
PG Energy's Responses

(1) (c) Volume of natural gas transported on its distribution system.

Year	Quarter	ccfs
1999	1st	191,542,264
1999	2nd	97,913,000
1999	3rd	69,858,970
1999	4th	128,884,139
2000	1st	194,404,949
2000	2nd	100,303,286
2000	3rd	72,347,166
2000	4th	139,654,673
2001	1st	201,482,887
2001	2nd	100,303,887
2001	3rd	70,836,894
2001	4th	116,424,196
2002	1st	177,284,139
2002	2nd	107,913,551
2002	3rd	73,774,844
2002	4th	143,000,663
2003	1st	213,216,650
2003	2nd	105,288,614
2003	3rd	69,904,226
2003	4th	126,721,915
2004	1st	202,780,716
2004	2nd	97,641,512

Annex A
PG Energy's Responses

(1) (d) Volume of natural gas transported for suppliers on its distribution system.

Year	Quarter	ccfs
1999	1st	76,914,003
1999	2nd	57,653,028
1999	3rd	56,001,300
1999	4th	72,293,449
2000	1st	81,262,198
2000	2nd	59,647,713
2000	3rd	56,930,319
2000	4th	71,957,157
2001	1st	67,939,252
2001	2nd	52,219,685
2001	3rd	39,320,245
2001	4th	68,658,539
2002	1st	78,374,024
2002	2nd	64,364,562
2002	3rd	60,683,725
2002	4th	78,841,622
2003	1st	82,757,502
2003	2nd	60,179,082
2003	3rd	56,010,648
2003	4th	68,440,173
2004	1st	77,380,441
2004	2nd	38,799,798

Annex A
PG Energy's Responses

1) (e) Number of customer complaints/disputes regarding slamming or unauthorized change of suppliers: changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue competition-related issue.

Year	Quarter	Complaints
1999	1st	0
1999	2nd	0
1999	3rd	0
1999	4th	0
2000	1st	0
2000	2nd	0
2000	3rd	0
2000	4th	0
2001	1st	0
2001	2nd	0
2001	3rd	0
2001	4th	0
2002	1st	0
2002	2nd	0
2002	3rd	0
2002	4th	0
2003	1st	0
2003	2nd	0
2003	3rd	0
2003	4th	0
2004	1st	0
2004	2nd	0

Annex A
PG Energy's Responses

(2) (a) Security requirement as posted in the distribution company's initial supplier tariff.
(2) (b) Each change that was made to this security requirement to date.

2) (a) Security requirements
Provide the following financial information:

a. Audited financial statements, annual report or Form 10-K for the most recent fiscal year-end.
b. Current interim financial statements.
c. Listing of parent company, affiliates and subsidiaries.
d. Names, addresses and telephone numbers of three trade references.
e. Dun and Bradstreet credit report.
f. If audited financial statements are not available, the last three years' federal income tax returns, including all schedules and attachments.

In addition, may be required to:

a. Provide a security deposit equal to $4.00 times the Pool Operator's Maximum Daily Transportation Quantity times 30 days for all Customers represented by the Pool Operator.
b. An irrevocable standby letter of credit in an amount equal to the amount calculated in "Qualifications of Pool Operators" Section 1.1.5(a) above, which is issued in favor of the Company and drawn upon a financial institution acceptable to the Company.
c. A guarantee by a person or another entity which satisfies the creditworthiness criteria outlined by the Company.
d. Other security mutually agreed upon by the Company and the Pool Operator.

2) (b) No changes made to date.

T.W. PHILLIPS
ENERGY CORP.

502 Keystone Drive
Suite 200
Warrendale, PA 15086
(888)443-4650

ORIGINAL

August 24, 2004

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SECRETARY'S BUREAU

DOCUMENT FOLDER

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

Re: Investigation into Competition in the Natural Gas Supply Market, PUC Docket No. I-00040103

Dear Mr. McNulty:

In accordance with the Commission's Order entered May 28, 2004 at the above-referenced Docket (the "Order"), I have enclosed the original and ten copies of the Responses of T. W. Phillips Energy Corp. to the questions listed in Annex A to the Order that were directed to Natural Gas Suppliers. Also enclosed is an electronic diskette which contains Energy Corp.'s Responses.

Please confirm your receipt of this filing by date stamping and returning to me the extra copy of this cover letter, using the stamped return envelope enclosed for your convenience.

Very truly yours,

T. W. PHILLIPS ENERGY CORP.

Stephen J. Sickafuse
Treasurer

Enclosures

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Pennsylvania
Public Utility Commission

Investigation into Competition in the Natural Gas Supply Market	)))	Docket No. I-00040103

Responses of
T. W. Phillips Energy Corp.
to PUC Information Requests

For each of the quarters of the years 1999 to 2004, provide the following:

(1) Number of customers (by class) for each distribution system on which the supplier operates.

Response:

T. W. Phillips Energy Corp. ("Energy Corp.") was licensed by the Pennsylvania Public Utility Commission in August 2000 to provide gas supply to commercial and industrial customers on the T. W. Phillips Gas and Oil Co. ("T. W. Phillips") distribution system in southwestern Pennsylvania. Energy Corp. does not serve residential customers. See Schedule "A" attached to this Response for the number and classifications of the customers served on the T. W. Phillips system.

SCHEDULE "A"

T. W. Phillips Energy Corp.'s Supplemental Response to Information Request 1

Numbers of Industrial/Commercial Customers Supplied (1999–2004 – By Quarter)

(in Mcf)

Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
1999	0	0	0	0
2000	0	0	41	45
2001	55	55	55	28
2002	21	21	24	24
2003	32	32	25	27
2004	44	44	-------	-------

(2) Volume of natural gas delivered to customers (by class) on each system on which the supplier operates.

Response:

The only customers supplied by Energy Corp. are on the T. W. Phillips distribution system in southwestern Pennsylvania. See the attached Schedule "B" for the volumes of gas served to customers on the T. W. Phillips' system.

SCHEDULE "B"

T. W. Phillips Energy Corp.'s Supplemental Response to Information Request 2

Commercial Customer Volumes (1999–2004 – By Quarter)

(in Mcf)

Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
1999	0	0	0	0
2000	0	0	73,457	195,393
2001	294,551	141,257	36,837	106,858
2002	176,273	105,541	51,695	142,159
2003	261,988	123,140	68,413	148,157
2004	264,529	137,139	-------	-------

Industrial Customer Volumes (1999–2004 – By Quarter)

(in Mcf)

Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
1999	0	0	0	0
2000	0	0	715,708	868,777
2001	1,413,221	1,899,836	1,764,310	2,467,151
2002	2,753,436	2,571,620	2,344,119	2,876,317
2003	3,007,248	2,682,473	2,438,997	2,729,264
2004	3,408,062	2,897,905	-------	-------

(3) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue competition-related issue.

Response:

None.

Respectfully submitted,

T. W. PHILLIPS ENERGY CORP.

August 24, 2004

Stephen J. Sickafuse
Treasurer

VALLEY ENERGY
523 S. Keystone Avenue, P.O. Box 340, Sayre, PA 18840
800/998-4427 • 570/888-9664 • FAX 570/888-6199

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AUG 2 6 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ORIGINAL

August 25, 2004

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

DOCUMENT FOLDER

RE: Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

Enclosed please find an original response and ten copies to the questions appearing in Annex A and an electronic version on diskette as outlined in the Order entered May 28, 2004.

If you have any questions regarding these documents, please feel free to contact me at your convenience.

Sincerely,

Marjorie Johnston

Marjorie Johnston
VP/Treasurer

Enc.

100

Valley Energy, Inc.
523 S. Keystone Ave.
PO Box 340
Sayre, PA 18840

A.) Number of natural gas suppliers operating on its distribution system;

Quarter ending		Gas Suppliers
Mar-99		5
Jun-99		5
Sep-99		5
Dec-99		5
Mar-00		5
Jun-00		5
Sep-00		5
Dec-00		5
Mar-01		5
Jun-01		5
Sep-01		5
Dec-01		5
Mar-02		5
Jun-02		5
Sep-02		4
Dec-02		4
Mar-03		4
Jun-03		4
Sep-03		4
Dec-03		4
Mar-04		5
Jun-04		5

Valley Energy, Inc.
523 S. Keystone Ave.
PO Box 340
Sayre, PA 18840

B.) Number of residential, industrial and commercial customer purchasing gas from alternative suppliers;

Quarter ending		Alternative Suppliers Residential	Alternative Suppliers Commercial	Alternative Suppliers Industrial	Alternative Suppliers Total
Mar-99		0	22	17	39
Jun-99		0	22	17	39
Sep-99		0	28	17	45
Dec-99		0	29	17	46
Mar-00		0	34	17	51
Jun-00		0	35	17	52
Sep-00		0	35	17	52
Dec-00		0	35	17	52
Mar-01		0	35	17	52
Jun-01		0	24	17	41
Sep-01		0	24	17	41
Dec-01		0	30	17	47
Mar-02		0	30	17	47
Jun-02		0	30	17	47
Sep-02		0	31	17	48
Dec-02		0	31	17	48
Mar-03		0	36	18	54
Jun-03		0	34	18	52
Sep-03		0	32	17	49
Dec-03		0	29	17	46
Mar-04		0	29	17	46
Jun-04		0	29	17	46

VALLEY ENERGY THROUGHPUT, SALES AND TRANSPORT GAS

By Quarter 1999 Through June 2004 in Mcf Pennsylvania opertions

C.) Volumes of natural gas transported on its distribution system;
D.) Volumes of natural gas transported for suppliers on its distribution system; See column D

Quarter ending	(C) Total throughput
Mar-99	1,011,933
Jun-99	638,847
Sep-99	541,222
Dec-99	855,145
Mar-00	1,095,593
Jun-00	687,928
Sep-00	549,576
Dec-00	928,265
Mar-01	968,032
Jun-01	569,010
Sep-01	491,905
Dec-01	798,739
Mar-02	974,899
Jun-02	657,956
Sep-02	508,038
Dec-02	942,499
Mar-03	1,100,130
Jun-03	604,175
Sep-03	528,943
Dec-03	844,682
Mar-04	1,067,623
Jun-04	671,196

(D) Transport gas for suppliers	(E) Non Transport sales
730,979	323,268
562,051	140,449
509,475	40,618
617,854	150,502
746,090	343,171
583,423	136,652
507,739	49,116
603,230	178,513
618,874	357,123
470,956	152,927
439,103	49,326
555,241	119,748
698,763	288,237
564,091	137,267
471,105	35,039
667,550	169,537
742,240	379,779
486,701	153,641
476,221	53,827
596,302	167,466
732,467	367,138
545,229	139,843

Valley Energy, Inc.
523 S. Keystone Ave.
PO Box 340
Sayre, PA 18840

E.) Valley has reviewed our complaints/disputes have found no indications of complaints/disputes regarding slamming or unauthorized change of supplier, etc.

(2a) Security requirement as posted in the distribution company's initial supplier tariff.

See attached pages number 48 – 50.

CREDITWORTHINESS

Company shall not be required to permit any Third Party Supplier not licensed by the Commonwealth of Pennsylvania within the last twelve months and who fails to meet Company's standards for creditworthiness to sell or deliver gas on its system. Company may require that Third Party Supplier provide the following information:

1. Current financial statements (to include a balance sheet, income statement and statement of cash flow), annual reports, 10-K reports or other filings with regulatory agencies, a list of all corporate affiliates, parent companies and subsidiaries and any reports from credit agencies which are available. If audited financial statements are not available, then Third Party Supplier also should provide an attestation by its chief financial officer that the information shown in the unaudited statements submitted is true, correct and a fair representation of Buyer's financial condition.

2. A bank reference and at least three trade references.

3. A written attestation from Third Party Supplier that it is not operating under any chapter of the bankruptcy laws and is not subject to liquidation or debt reduction procedures under state laws, such as an assignment for the benefit of creditors, or any informal creditor's committee agreement. An exception can be made for a Third Party Supplier who is a debtor in possession operating under Chapter XI of the Federal Bankruptcy Act but only with adequate assurances that any changes from the Company will be paid promptly as a cost of administration.

4. A written attestation from Third Party Supplier that is not subject to the uncertainty of pending litigation or regulatory proceedings in state or federal courts which could cause a substantial deterioration in its financial condition or a condition of insolvency.

RATE SCHEDULE TPS - THIRD PARTY SUPPLIERS SERVICE (Cont'd.)

CREDITWORTHINESS (Continued)

5. A written attestation from Third Party Supplier that no significant collection lawsuits or judgments are outstanding which would seriously reflect upon the business entity's ability to remain solvent.

If Third Party Supplier has an ongoing business relationship with Company, no uncontested delinquent balances should be outstanding for natural gas sales, storage, transportation services or imbalances previously billed by Company, and Third Party Supplier must have paid its account during the past according to the established terms, and not made deductions or withheld payment for claims not authorized by contract.

Third Party Supplier shall furnish Company at least annually, and at such other times as is requested by Company, updated credit information for the purpose of enabling Company to perform an updated credit appraisal. In addition, Company reserves the right to request such information at any time if Company is not reasonably satisfied with Third Party Supplier's creditworthiness or ability to pay based on information available to Company at that time.

Company shall not be required to permit and shall have the ability to suspend the ability of any Third Party Supplier who is or has become insolvent, fails to demonstrate creditworthiness, fails to timely provide information to Company as requested, or fails to demonstrate ongoing creditworthiness as a result of credit information obtained; provided, however, Third Party Supplier may continue to sell/deliver gas on the Company's system if Third Party Supplier elects one of the following options:

1. Payment in advance for up to three (3) months service.

2. A standby irrevocable letter of credit in form and substance satisfactory to Company in a face amount up to three (3) months service. The letter of credit must be drawn upon a bank acceptable to Company.

3. A guaranty in form and substance satisfactory to Company, executed by a person that Company deems creditworthy, of Third Party Supplier's performance of its obligations to Company.

4. Such other form of security as Third Party Supplier may agree to provide and as may be acceptable to Company.

In the event Third Party Supplier fails to immediately prepay the required three (3) months of revenue or furnish security, Company may, without waiving any rights or remedies it may have, and subject to any necessary authorizations, suspend Third Party Supplier until security is received.

RATE SCHEDULE TPS - THIRD PARTY SUPPLIERS SERVICE (Cont'd.)

CREDITWORTHINESS (Continued)

The insolvency of a Third Party Supplier shall be evidenced by the filing by Third Party Supplier, or any parent entity thereof, of a voluntary petition in bankruptcy or the entry of a decree or order by a court having jurisdiction adjudging the Third Party Supplier, or any parent entity thereof, bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of the Third Party Supplier, or any parent entity thereof, under the Federal Bankruptcy Act or any other applicable federal or state law, or appointing a receiver, liquidator, assignee, trustee, sequestrator, (or similar official) of the Third Party Supplier or any parent entity thereof or of any substantial part of its property, or the ordering of the winding-up or liquidation of its affairs.

(2b) Each change that was made to this security requirement to date.

To date the Company has felt no need to make any changes to the security requirements.

conEdison
a conEdison, inc. company

ORIGINAL

Jane J. Quin
Associate Counsel

DOCKETED
OCT 12 2004

August 26, 2004

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AUG 26 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Room B-20, North Office Building
Harrisburg, PA 17190

Re: Docket No. I-00040103, Investigation into Competition in the Natural Gas Supply Market

Dear Secretary McNulty:

Pike County Light and Power Company ("Pike") is in receipt of the Commission's Order adopted May 27, 2004 and entered May 28, 2004, regarding the Natural Gas Choice and Competition Act's (the "Act") requirement that the Commission initiate an investigation or other appropriate proceeding to determine whether effective competition for natural gas supply services exists in the Commonwealth. Ordering paragraph 5 [sic] of the Order requires "natural gas distribution companies" to file answers to the questions appearing in Annex A by August 27, 2004.

Although Pike is natural gas distribution company in Pennsylvania, it is not a "Natural Gas Distribution Company" as defined in the Act because it has annual gas operating revenues of less than $6,000,000 per year and has not voluntarily petitioned the Commission to be included within the definition or sought to provide natural gas supply services to retail gas customers outside of its service territory. Consequently, Pike has no information that is responsive to the questions in Annex A. On behalf of Pike, I conferred with Robert Bennett, Fixed Utility Services, the Commission's contact on this matter and Mr. Bennett concurred that, under the circumstances, a response from Pike should not be necessary.

DOCUMENT FOLDER

113

Consolidated Edison Company of New York, Inc.
4 Irving Place New York NY 10003 212 460-2571 212 677-5849 fax quinja@coned.com

If you have any questions regarding the foregoing, or if it is determined that Pike needs to submit anything further to comply with the Commission's Order, please contact me at (212) 460-2571.

Very truly yours,

Jane J. Quin / bd

Jane J. Quin
Associate Counsel

cc: Mr. Robert Bennett

ORIGINAL

RECEIVED
AUG 26 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural Gas Supply Market	))	Docket No. I-00040103

DOCUMENT FOLDER

DOCKETED
OCT 18 2004

TESTIMONY OF
THE NATIONAL ENERGY MARKETERS ASSOCIATION

The National Energy Marketers Association (NEM)[1] hereby submits the testimony of Craig G. Goodman, President of NEM, pursuant to the Commission's Order of May 27, 2004. The Commission initiated this proceeding pursuant to Section 2204(g) of the Natural Gas Choice and Competition Act that provides that,

> Five years after the effective date of this Chapter, the Commission shall initiate an investigation or other appropriate proceeding, in which all interested parties are invited to participate, to determine whether effective competition for natural gas supply services exists on the natural gas distribution companies' systems in this Commonwealth. The Commission shall report its findings to the General Assembly. Should the Commission conclude that effective competition does not exist, the Commission shall reconvene the stakeholders in the natural gas industry in this Commonwealth to explore avenues, including legislative, for encouraging increased competition in the Commonwealth.

The Commission asked the parties to respond to the following topics in their testimony as well as other relevant issues: 1) assessment of the level of competition in Pennsylvania's natural gas supply service market; 2) effect of the price of natural gas on competition; 3) effect of consumer education on competition; 4) effect of customer information/service on competition; 5) effect of supplier financial security requirements on competition; 6) effect of natural gas distribution company penalties and other costs on competition; and

[1] NEM is a national, non-profit trade association representing wholesale and retail marketers of natural gas, electricity, as well as energy and financial related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, electronic trading exchanges and price reporting services, advanced metering, demand side management and load management firms, billing, back office, customer service and related information technology providers. NEM members are global leaders in the development of enterprise solution software for energy, advanced metering, telecom, information services, finance, risk management and the trading of commodities and financial instruments. NEM members also include Multiple Service Organizations (MSOs), inventors, patent holders, systems integrators, and developers of advanced Broadband over Power Line (BPL), Power Line Communications (PLC) technologies, and Hybrid-PLC as well. NEM and its members are committed to helping federal and state lawmakers and regulators to implement a consumer-focused, value-driven transition to a reliable, price and technology competitive retail marketplace for energy, telecom and financial related products, services, information and technologies.

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7) any avenues, including legislative, for encouraging increased competition in Pennsylvania. NEM appreciates this opportunity to offer its observations and recommendations on these issues.

NEM submits that, ultimately, it hopes the Commission will encourage utilities to exit the merchant function by a date certain. In the interim, there are a number of measures the Commission can implement to improve the competitive environment in the Commonwealth including use of monthly market-based utility pricing, competitively neutral consumer education programs, facilitation of easy, cost-effective data flows, establishment of reasonable creditworthiness requirements, elimination of unreasonable supplier fees and penalties, and requiring reasonable discount rates for utilities that purchase marketer receivables.

1. Level of Competition in Pennsylvania's Natural Gas Supply Service Market

There are a number of indicia that can be referred to in determining the level of competition in the Commonwealth's natural gas supply service market. These statistics can provide a valuable reference point for the Commission to consider. For instance, from October 2001 to July 2004, the overall percent of residential customers served by alternative suppliers has declined from 12.57 percent to 7.3 percent.[2] Migration in the Columbia Gas, Dominion Peoples and Equitable Gas programs has been somewhat more robust than in the other service territories.[3]

Relatedly, the amount of natural gas delivered for the account of others has not increased for residential, commercial and industrial consumers from 1999 through 2002. The amount of natural gas delivered for the account of residential customers was 27,254 in 1999 and 26,521 in 2002.[4] The amount of natural gas delivered for the account of commercial customers was 61,752 million cubic feet in 1999 and was 53,048 million

[2] Pennsylvania Office of Consumer Advocate, Pennsylvania Gas Shopping Statistics, July 1, 2004, July 1, 2003, July 1, 2002, and October 1, 2001.
[3] Id. Residential migration in the Columbia Gas program was at 31.88 percent in October 2001 and declined to 21.8 percent by July 2004. Residential migration in the Dominion Peoples program was at 35.36 percent in October 2001 and declined to 26.3 percent by July 2004. Residential migration in the Equitable Gas program was at 11.4 percent in October 2001 and declined to 8.3 percent by July 2004. Migration was at zero to 1.5 percent for other utilities during this time period.
[4] Energy Information Administration, Natural Gas Annual 2002, issued January 2004, at page 129.

cubic feet in 2002.[5] The amount of natural gas delivered for the account of industrial customers was 204,506 million cubic feet in 1999 and 190,139 million cubic feet in 2002.[6]

Another indicator of the level of competition in the Commonwealth's natural gas supply service market is the number of market participants. As of January 2004, there were four suppliers serving residential consumers in the Commonwealth.[7]

These statistics, while not giving a comprehensive view, do provide a basis for comparison about customer and marketer participation in choice programs. While additional information about regulatory environment and utility tariffs and operational procedures are necessary to form a full assessment, these statistics do indicate that it is appropriate for the Commission to consider additional measures to encourage competition in the natural gas supply market.

2. Effect of the Price of Natural Gas on Competition

The Commission has asked about the effect of the price of natural gas on competition. NEM submits that the relevant inquiry should be restated as the effect of utility pricing of natural gas on competition. In order to encourage competition in the Commonwealth, it is imperative that consumers be permitted to see and respond to proper price signals. Toward that end, utility pricing must be permitted to fluctuate with current market conditions and do so on a timely basis. NEM recommends that the Commission require utilities to implement a monthly-adjusted Purchased Gas Cost (PGC) rate. This will permit utility pricing to be more reflective of market conditions and send better price signals to consumers as is necessary to support a competitive market that efficiently matches demand with supply, prevents shortages and price spikes, and encourages conservation.

The Commission is permitted by Pennsylvania statute to require monthly adjustments. 66 Pa. C.S. § 1307(f)(II) provides that,

---

[5] Id.
[6] Id.
[7] Energy Information Administration, Retail Unbundling – Pennsylvania available at: http://www.eia.doe.gov/oil_gas/natural_gas_restructure/state/pa.html.

> A natural gas distribution company may also file a tariff to establish a mechanism by which such natural gas distribution company may further adjust its rates for natural gas sales on a regular, but no more frequently than monthly, basis to reflect actual or projected changes in natural gas costs reflected in rates established pursuant to paragraph (2), subject to annual reconciliation under paragraph (5). In the event that the natural gas distribution company adjusts rates more frequently than quarterly, it shall also offer retail gas customers a fixed rate option which recovers natural gas costs over a 12-month period, subject to annual reconciliation under paragraph (5). The Commission shall within 60 days of the effective date of this subparagraph, promulgate rules or regulations governing such adjustments and fixed rate option, but the Commission shall not prohibit such adjustments or fixed rate option. (emphasis added).

However, the Commission's regulations on the matter anticipate quarterly adjustments. 52 Pa. Code § 53.64(i)(5) provides that,

> A Section 1307(f) utility which files tariffs reflecting increases and decreases in gas costs in accordance with 66 Pa. C.S. § 1307(f) shall make quarterly filings in accordance with the following provisions:
>
> (i) Quarterly filings shall be made 3 months, 6 months, 9 months and 12 months after the effective date of the Section 1307(f) tariff. Each filing shall be based upon a recalculation and reconciliation of gas costs for a quarterly period commencing 4 months prior to the filing date.

NEM urges the Commission to amend its regulations to require monthly adjustments to the PGC rate. NEM notes that the statute contemplates that if monthly pricing adjustments are used that a utility fixed price option would also be offered. NEM would caution that the addition of a fixed price option could create a confusing shopping environment for consumers and a potentially harmful competitive environment as it would create two utility "prices to beat." Therefore, NEM recommends that a monthly utility pricing adjustment requirement be instituted without a utility fixed price option. Consumers that desire the pricing stability of a fixed price option can purchase such a product from a competitive supplier.

NEM supports a monthly-adjusted PGC rate based on a market-based formula that is tied to a published and credible index such as the NYMEX that closes at least one month in advance of the current month. This will permit marketers to market against a formula that is known sufficiently in advance, and give transactional certainty to both the utilities and the marketplace so that adjustments to a migrating customer's bill can be avoided after the migration date. The PGC mechanism should only provide over- or under-collections or other supply-related costs that were attributable to the period prior to migration to avoid any potential double charging or recovery of such charges.

The use of this approach would permit utilities to update their PGC filings to ensure that rates are more reflective of current market conditions yet the "price to beat" against which marketers must price commodity and related services would be more transparent, give the marketplace enough time to compete against it, plus give consumers better pricing information and discovery. Moreover, NEM submits that using a formula that is published one month in advance of the delivery month would reflect accurate market signals and not unduly restrict the flexibility of utilities to recover costs.

NEM notes that the Public Utilities Commission of Ohio examined this issue and found that the utilities, "GCR [Gas Cost Recovery] rate [may] be revised more frequently than on a quarterly basis."[8] The Commission decided to permit this, "flexibility to accommodate company contract arrangements, supply portfolios, demand shifts, billing/accounting systems' changes, further evolution of the choice programs and changing natural gas market conditions."[9] The Ohio Commission previously approved the individual requests of Vectren Energy Delivery and Cincinnati Gas and Electric to make monthly GCR rate adjustments.[10] NEM urges this Commission to examine Ohio's approach.

3. Effect of Consumer Education on Competition

Consumer education is critical to support competitive energy markets. It is also critical that consumers receive a unified, coordinated and easily understandable message from all market participants to avoid customer confusion about their potential options. Toward that end, NEM submits that competitive suppliers should be permitted to be involved in the development of Commission and utility consumer education messages about choice

[8] PUCO Case No. 03-1384-GA-ORD, In the Matter of the Commission's Review of its Rules Regarding the Uniform Purchased Gas Adjustment at Chapter 4901:1-14, Ohio Administrative Code, Finding and Order, issued March 11, 2004, at page3.
[9] Id at page 5.
[10] PUCO Case 03-939-GA-UNC, In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Make Monthly Adjustments to the Expected Gas Cost Component of the Gas Cost Recovery Rate; PUCO Case 03-1584-GA-UNC, In the Matter of the Application of Cincinnati Gas and

in order to ensure the competitively neutrality of the information presented. NEM suggests that consumer outreach and education should include collaboration with competitive suppliers regarding the message and method of communication. Even though choice has been available for some time to Pennsylvania gas consumers, subsequent to the Commission's decision in this proceeding, it may be advisable to reinitiate a campaign that educates consumers about the general benefits of choice programs as well as any specific market changes the Commission decides are appropriate.

4. Effect of Customer Information/Service on Competition

In order to avoid duplication of the response to Item 3 above, NEM construes this issue to refer to ease of data flow between utilities and competitive suppliers concerning customer information. Seamless, low-cost, efficient data and information exchange is the key to lowering the cost of energy and related services as well as enhancing reliability. Critical to the long-run success of a competitive energy industry is the ease of entry into the marketplace of competitive suppliers of all sizes. The greater the number of competitive suppliers, the more price competition and variety of value-added services will be offered to consumers. In order facilitate competitive entry, standardized business practices and a consistent set of information standards should be utilized. In particular, NEM recommends that the utilities provide historical load profile information in a web-based application and that utilities provide customer lists to competitive suppliers.

In the absence of standardized business practices, market participants are forced to divert scarce resources to customize billing, back office, and customer care facilities, and to develop and maintain non-standardized information protocols or develop specialized knowledge of different rules in each jurisdiction, driving energy prices higher nationwide. Consistent and uniform implementation of business rules will allow marketers to compete in different jurisdictions in a more cost-effective manner.

Electric Company for Authority to Make Monthly Adjustments to the Expected Gas Cost Component of the Gas Cost Recovery Rate.

5. Effect of Supplier Financial Security Requirements on Competition

Supplier financial security requirements have a direct impact on competitive market entry. Financial security requirements should not be unduly burdensome and onerous. Security requirements should be designed to provide the utilities with reasonable compensation in the event of a supplier default. However, requirements should reflect reasonable costs of procuring alternate supplies during reasonable weather conditions, not severe, atypical weather conditions that are seldom seen.

Companies with certain S&P or Moody ratings should already meet reasonable standards. Others should be able to meet the financial standard with, for example, cash, letters of credit, parental guarantees, or a reasonable bonding requirement. Excessive financial security requirements increase the costs associated with energy commodity and limit competition.

6. Effect of Natural Gas Distribution Company Penalties and Other Costs on Competition

Gas utility penalties and unreasonable fees have the effect of limiting competition. Fees for balancing and related services should be cost-based. NEM submits that delivery tolerances should be instituted within which reasonable fees or penalties will not be assessed. A true-up procedure should be performed every thirty, sixty, or ninety days to account for supply imbalances, and marketers should be allowed to engage in imbalance trading to minimize fees incurred. Similarly, unreasonable administrative charges, access fees or pooling charges are artificial barriers to competition and should be prohibited.

NEM also urges that utility settlement and balancing processes must be established on a more definitive and less discretionary basis in order to provide competitive suppliers with greater certainty of their costs of participating in the market. For instance, in the Columbia Gas program the utility has the sole discretion to require suppliers to either flow gas or provide cash to cash out imbalances. It is difficult for suppliers to prepare for and respond to this contingency.

7. Avenues for Encouraging Increased Competition in Pennsylvania

In its responses to Issues raised by the Commission in Items 1 through 6 above and Issue 8 below NEM offers suggestions about how to improve the competitiveness of the Pennsylvania gas market during a transitional period while the utilities remain in the merchant function. NEM also recommends that the Commission adopt an end-state vision for this market, setting forth a date certain by which utilities will exit the merchant function.

NEM asserts that in the long term, all consumers in restructured energy markets should be served by energy service providers at competitive prices, and it is desirable to get to that end state as quickly as possible. Furthermore, it is imperative to set a date certain by which to complete the transition to a competitive market. The longer it takes to implement competitively restructured energy markets, the higher energy costs will be. Investment capital must have both political and financial certainty in order to be competitively deployed for the benefit of Pennsylvania consumers.

NEM also recommends that the SOLR function can and should be a competitively bid function and should reflect all of the political, social and reliability concerns of providing Last Resort service.

8. Purchase of Accounts Receivable

NEM recommends that the consolidated billing party should purchase the receivables of the non-billing party until the utility billing function is competitively outsourced or unbundled from utility rates based on the utility's fully allocated embedded costs of providing billing and collection services. NEM also supports the application of a reasonable discount rate for the purchase of receivables to permit the utilities to collect what should be a minor incremental cost of collecting 100% of the utility-generated bill rather than a portion of the same bill. Given the utilities' already low uncollectible rate coupled with their on-going obligation to collect delivery charges for migrating customers as well as both energy and delivery charges for full service customers, the incremental costs of collecting all outstanding charges should be de minimus.

It is NEM's understanding that the discount rate for purchase of receivables in the Columbia Gas choice program is 5%. NEM submits that this rate is excessive. For instance, Detroit Edison and Consumers Energy in Michigan purchase receivables without assessing any discount rate. In Ohio, Vectren Energy Delivery, Dominion East Ohio and Columbia Gas of Ohio purchase receivables at 2%, 1% and no discount rate, respectively. Additionally, the discount rate for purchasing receivables proposed by two New York utilities is also well below the amount charged by Columbia Gas. A recently filed Consolidated Edison settlement proposed a discount rate of between 1 1/4% and 2% for its gas choice program,[11] and a recently filed Central Hudson settlement proposed a discount rate of .9% for purchase of receivables in its gas and electric choice programs.[12] New York Public Service Commission decisions in these proceedings are expected soon. NEM submits that these discount rates are far more reasonable and urges the Commission to reexamine the Columbia Gas discount rate accordingly.

9. Conclusion

NEM appreciates this opportunity to offer its observations on whether effective competition for natural gas supply services exists in Pennsylvania and urges the Commission to adopts its recommendations to improve the climate for competition in the Commonwealth.

Sincerely,

Craig G. Goodman, ~~Esq.~~
President,
National Energy Marketers Association
3333 K Street, NW, Suite 110
Washington, DC 20007
Tel: (202) 333-3288 Fax: (202) 333-3266
Email: cgoodman@energymarketers.com
Website-www.energymarketers.com

Dated: August 26, 2004.

[11] NYPSC Case 03-G-1671, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service.

[12] NYPSC Cases 00-E-1273 and 00-G-1274, Proceeding on Motion of the Commission as to Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Gas and Electric Service.

UtiliTech, INC.

Utility & Telecommunications Analysts

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SECRETARY'S BUREAU

August 25, 2004

ORIGINAL

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT FOLDER

RE: Docket No. I-00040103
Investigation into Competition in the Natural Gas Supply Market

Dear Mr. McNulty:

Enclosed are an original and ten (10) copies of written testimony and one diskette containing an electronic version of the written testimony addressing the subject of the above referenced docket.

We look forward to constructive results from the hearing to be held September 30, 2004.

Very truly yours,

C. D. Clifford

Curtis D. Clifford
Vice President of Natural Gas Services

975 Berkshire Blvd. • Suite 100 • Wyomissing, PA 19610
610-777-3200 • FAX 610-777-2699
www.utilitech.com

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Pennsylvania Public Utility Commission - Docket No. I-00040103
Investigation into Competition in the Natural Gas Supply Market

Respectfully submitted,
Curtis D. Clifford

Presenter - Curtis D. Clifford
Professional/Educational Qualifications – Professional Engineer, PA licensed; BS Civil Engineering, BA Social Sciences both from Union College, Schenectady NY

Present Employment – Vice President of Natural Gas Services since January 2001 at UtiliTech, Inc. 975 Berkshire Blvd, Ste 100; Wyomissing, PA 19610.

Relevant Prior Experience (in order from most recent) – Five years (2 1/2 at both NUI Energy and Con Edison Solutions) doing deregulated natural gas sales and operations in Pennsylvania; eight years at UGI's GASMARK subsidiary as general manager in charge of deregulated gas sales and operations; 28 years total with UGI Corporation (17 years in deregulated subsidiaries and 11 years in regulated utility operations).

Activity at UtiliTech - Natural gas consulting for all clients that are commercial and industrial gas consumers; concentrating on deregulated gas procurement, utility rate analysis, and invoice audits.

Client Locations – Nationwide, but concentrated in Pennsylvania and surrounding states.

Pennsylvania Gas Utilities Serving UtiliTech Clients – Columbia of PA, Dominion PNG, Equitable Gas, National Fuel Gas, PECO Energy, PG Energy, Philadelphia Gas Works, PPL Gas, UGI Utilities.

Testimony – Submitted August 25, 2004
Assess the level of competition in Pennsylvania's natural gas supply service market: Gas supply competition is alive but not well from the perspective of Pennsylvania gas consumers. Compared with the surrounding states of New York, New Jersey, Ohio and Maryland, Pennsylvania consumers find fewer competing suppliers, more inhibiting rate factors and less accurate consumer information. In general, the commission can help by proactively adjusting utility rate structures that are weighted against delivery service; searching out and seeking solutions to supplier concerns that discourage competitive entry; and regularly updating lists of suppliers, prices and customer migration statistics.

Here are specific issues we have identified:

1. LDC security requirements are excessively high for suppliers and unnecessarily high measured against protection utilities need for financial integrity. This issue is currently under PUC review in Shipley vs. UGI – Docket P00032045.

2. LDC fixed/customer charges for delivery rates that are higher than fixed/customer charges under bundled rates lower the price threshold for competing gas.

3. Some LDC delivery rates charge for expenses that the LDC's no longer pay. For instance, the commission has already acknowledged (but not removed) UGI's system access fee as inappropriate in Stroehmann Bakeries' challenge under Docket R-00016376C002. Such charges impact competitive gas as in #2 above.

4. The PUC unduly protects LDC's from legitimate complaints of business customers by prohibiting them from using the informal complaint process.

5. PUC website information says that one gas utility has only three choice gas suppliers, three have only one each and six of the ten have none! If accurate, that means either gas choice in Pennsylvania is virtually dead or the PUC information on suppliers is woefully inaccurate.

6. Utility contracts for customers in special rate classes contain unreasonable terms as a condition for receiving such rates: e.g. imposing five-year terms, one-year termination notices, strict confidentiality and no contact with interstate pipelines.

7. Fees and procedures for daily consumption information are excessive and cumbersome. and in some cases the information is inaccurate.

8. Some LDC's are still reporting customer usage on billing cycles other than calendar months while requiring suppliers to match the usage with calendar month deliveries.

9. Some suppliers are reluctant to take a stand on these issues because they sell gas to Pennsylvania utilities and do not wish to jeopardize those relationships.

10. Many potential suppliers are intimidated by the perception, if not the reality, that utility affiliates use unfair advantages gained from their corporate relationships. Oddly, some utility affiliates feel their parent overly penalizes them in an effort to eliminate the perception of preference. These conditions hinder competition.

11. Many times, LDC gas prices and gas cost adjustments have little relationship to market prices, which makes market-based supplier prices appear arbitrarily high.

12. Utilities are slow to affect the switching process for customers coming in and going out of choice programs, which sometimes whipsaw the customers. Of some 20 UtiliTech clients requesting return to tariff by October of last year, the utility returned most after December 1st and some not until February. By then, the relative gas cost advantage had reversed.

13. In response to complaints of unfriendly rates and procedures, utilities say they must be stringent because they are burdened by being the supplier of last resort. At least two states (Georgia and Florida) have installed deregulated suppliers in those positions, removing the burden from the utilities. PA could do this.

Shell Energy

Shell Energy Services
One Shell Plaza,
Suite 4100
Houston, TX 77002

August 25, 2004

DOCUMENT FOLDER

Mr. James J. McNulty
Secretary, Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Docket No. I-00040103

Dear Mr. McNulty,

Please find enclosed an original and 10 copies of Shell Energy's written testimony in Docket No. I-00040103, Investigation into Competition in the Natural Gas Supply Market. An electronic version is also included on diskette.

Sincerely,

Harry Kingerski

Harry Kingerski
Regulatory Affairs Manager
Shell Energy Services, LLC
910 Louisiana Street, Room 4100
Houston, TX 77002

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COMMENTS TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural Gas Supply Market **Docket No. I-00040103**

Comments of Shell Energy Company, LLC

I. INTRODUCTION

Shell Energy Services Company, LLC ("Shell Energy") files these comments in response to the Commission's Order of May 28, 2004, requesting comments on the level of competition in the retail natural gas industry in Pennsylvania and means for encouraging increased competition.

Shell Energy currently provides retail natural gas energy services to residential and small to mid-sized commercial customers in Georgia and Ohio. In Georgia, Shell Energy provides natural gas service and all related billing, back-office, call center, and customer care services to its customers (as do all certificated marketers in the Atlanta Gas Light market). In Ohio, Shell Energy provides natural gas service behind three separate local distribution companies (LDCs), and is currently the provider to about 80,000 Percent of Income Payment Plan ("PIPP") customers in the Dominion East Ohio service area. Shell Energy relies on the extensive supply and trading abilities of its affiliate, Coral Energy, which is a licensed gas supplier in Pennsylvania, serving large commercial and industrial load.

As a supplier with growth aspirations, Shell Energy has an interest in the competitive retail structure of the Pennsylvania market. Shell Energy confines its comments to a limited subset of the questions posed by the Commission. Comments are offered as suggestions for the Commission to consider and act upon if it desires to expand the value of competitive supply for consumers in Pennsylvania and make the market attractive to potential entrant suppliers.

II. COMMENTS ON THE QUESTIONS POSED

1. The assessment of the level of competition in Pennsylvania's natural gas supply service market.

If a state's market has been open to competition for a number of years, one of the best indicators of the quality of that market is the customer participation level. A high or at least growing level of participation indicates that customers find value in participating in the market, and marketers are allowed to deliver valuable services. In Ohio, for example, residential enrollment has reached an average of about 40% across the states' four LDCs, and sustained participation in excess of 50% has led Dominion East Ohio to seriously consider voluntarily exiting the merchant function.

The level of competition in Pennsylvania's natural gas market is low and sinking ever lower. Data from the Pennsylvania Office of Consumer Advocate show a steady decline in the absolute number and percentage of consumers participating. This is true statewide and for each LDC with a non-trivial participation rate.

Without any further analysis, these data tell a compelling story to a potential supplier entrant. On the surface, the story told is a simple one – the state's competitive retail market is failing, and there are no obvious signs of an impending turnaround.

Percent of Residential Customers Served by Alternative Suppliers

	1/1/02	7/1/02	7/1/03	7/1/04
Columbia Gas	31.4	31.2	24.4	21.8
Dominion Peoples	35.1	32.9	28.6	26.3
Equitable Gas	10.3	10.2	8.9	8.3
State	12.3	12.0	9.9	7.3

2. *The effect of the price of natural gas on competition.*

The single most important determinant of the level and quality of competition where the utility remains in the merchant function is the utility's price for gas commodity service (i.e., the gas commodity rate, or "GCR"). The methodology for determining the GCR can make or break the market. With a proper, pro-competitive methodology for calculating the GCR, a retail market can thrive regardless of the level of wholesale natural gas prices. Without such a pro-market methodology, it will be difficult if not impossible to establish a viable market.

When the utility remains in the merchant function, the GCR serves as the "price to beat" and is a critical factor influencing customer choice. However, the LDCs methodology for determining GCR is fundamentally different from the marketer's approach to setting a competitive price. Rules in Pennsylvania that govern GCR determination discourage choice of third party suppliers and put marketers in the position of competing against the incumbent utility rather than each other.

There are at least three reasons why the GCR rules are discouraging competition and exercise of customer choice:

1) an annual GCR filing by a Section 1307(f) LDC creates the illusion that the customer is receiving a stable, fixed rate from the utility. In reality, the customer is receiving a variable rate that is subject to later (upward) adjustment, sometimes long after the period when consumption occurred, to keep the utility whole for its actual costs. By contrast, marketers offer a true fixed price that is not subject to later upward adjustment. Indeed, the 12-month fixed price is a principal product offered by Shell Energy in the AGL market, and it is a mainstay product of all marketers in the Ohio markets. But it is not likely to be an attractive product in Pennsylvania because customers incorrectly perceive they are getting price stability through the utility.

2) incentives exist for the utility to establish below-market GCR rates that under-estimate its actual costs, thus creating the illusion that the LDC's price is better than the marketer's price. In a period of rising prices, a normal tendency will be for an LDC to under-estimate costs. If it under-estimates costs, it avoids or minimizes customer and political consternation, and per 1307(f) it will recover its "mistake" with a premium amount of interest. If it over-estimates costs, it risks incurring the wrath of customers and political leaders, and it must refund its "mistake" at an even higher interest rate.

3) the competition is inherently unfair: marketers must compete with a price reflective of fully loaded gas costs against a GCR that by rule can only reflect an LDC's pure gas cost (it excludes non-gas cost items). Marketers incur personnel and other costs to manage supply, address legal and regulatory issues, perform accounting, financial, and management functions, and maintain call center functionality. For utilities, the comparable costs are recovered in base rates. For marketers, these costs must be recovered through the price of their product, a price that consumers will compare to the

GCR. Customers that select a marketer thus double-pay non-gas costs; once to their supplier, and once to the utility through the inclusion of such costs in the transportation rates.

A pro-competitive methodology is one where the gas cost component of the GCR is adjusted monthly and follows a formula that reflects wholesale market prices. NYMEX futures, for example, could be used in the pricing formula for the upcoming month, one month in advance. True-ups would be performed monthly. A mechanism linked to market prices sends accurate price signals and avoids large after-the-fact adjustments for over- or under-recoveries that further distort the price signal. It also minimizes or eliminates the need for discretionary forecasts of gas prices by utilities.

Would such a mechanism expose customers to undesirable price volatility? In our view, no. Customers who want stable, guaranteed prices would select these products from marketers, avoiding monthly price volatility <u>and</u> exposure to higher than anticipated prices through utility true-ups. Marketers can offer such products because they can align their hedging strategies with customer choices; i.e., one-year hedges are purchased for customers who desire one-year fixed prices. In reality, the monthly, market-based GCR does not increase a GCR customer's exposure to volatility; it simply compresses that exposure into a shorter time period rather than deferring it months into the future, as happens under the current system.

Evidence shows monthly market-based pricing is accepted by residential customers and is conducive to expanded choice participation. Vectren of Ohio (serving Dayton, Ohio and surrounding areas) initiated a customer choice program early in 2003, and residential participation has quickly grown to 25% in a short time period. Vectren utilizes a monthly, market-based GCR that the Ohio PUC allowed in 2003. Nicor Gas (serving 1.8 million customers in and around Chicago) has a monthly, market-based GCR. Nicor's Choice Program was made permanent early in 2002 and residential participation has grown over the past 2 years to a modest 7%. A majority of AGL's 1.5 million customers voluntarily elect to receive monthly variable prices, although one-year fixed prices also have a sizable market share.

6. The effect of natural gas distribution company penalties and other costs on competition.

For retail competition to take root and survive, a retail provider must be able to establish a direct relationship with the customer. For natural gas suppliers, a principal opportunity for that contact occurs through the presentation of a monthly bill and related information. Pennsylvania does not permit that relationship to take root; LDCs continue to hold that direct retail relationship and suppliers truly are a "third party". Suppliers are given the opportunity to present a commodity-only bill, which amounts to little more than an annoyance to the residential customer. Suppliers are literally at the mercy of the LDC in constructing products, collecting money, and communicating to customers.

The tariff of Peoples Natural Gas is representative of Pennsylvania LDC tariffs, and perhaps clearer than most, in conveying exactly where the supplier stands:

- "The Company shall maintain a limited amount of billing system space and accordingly, shall offer only a limited number of price plans per NGS."
- "The Company shall not be required to make programming changes to accommodate the NGS's rate structure."

- "The billing envelope shall not provide space for inserts from the NGS."
- "The Company will remit to the NGS on a monthly basis all amounts actually paid to the Company by the ratepayer relating to the charges billed to the ratepayer on behalf of the NGS" .... after deduction for current company charges.

These practices convey a "suppliers are unwelcome" message and limit the ability of suppliers to develop a retail relationship with its customers, both of which constrain development of a competitive market. The following reforms are needed:

- Billing services should be unbundled from the LDCs' rate structure and made optional to the supplier. LDC rates for billing should reflect fully allocated embedded billing costs, including bad debt and collection. These costs should be simultaneously removed from transportation rates. Consolidated billing by the supplier should be encouraged with LDC charges collected through the supplier's consolidated billing. Ultimately, billing should be made fully competitive.
- In the interim period prior to full billing unbundling, LDCs should be required to purchase marketer receivables at an appropriate, cost-based discount rate. Receivables purchase by the utility removes the controversy over payment priority and removes the inherent unfairness of having marketers' receivables last in the payment posting queue.

III. CONCLUDING REMARKS

To reverse Pennsylvania's downward trend in residential participation in customer choice and create customer value from competition, Shell Energy recommends that the Commission initiate immediate action that will:

- Institute monthly market-based GCRs for residential customers
- Require that LDCs purchase marketer receivables as a transition step toward the full unbundling of billing services by LDCs.

Longer term, the Commission should investigate the proper role of the utility in providing merchant gas services, with an eye toward eliminating that role once it can be determined that the competitive market is capable of providing those services in Pennsylvania.

Submitted by:

Harry Kingerski

Harry Kingerski
Regulatory Affairs Manager

On behalf of:

Shell Energy Services, LLC
910 Louisiana St., Room 4100
Houston, TX 77002

August 25, 2004

I-00040103

ORIGINAL

PENNECO OIL COMPANY

CONTACT : MATHEW S. JACOBS - (724) 468-8232

ANSWERS TO "ANNEX A" OF **THE PENNSYLVANIA PUBLIC UTILITY COMMISSION INVESTGATION INTO COMPETION INTHE NATURAL GAS SUPPLY MARKET - DOCKET NO. I-00040103 DATED MAY 28,2004**

ANSWER TO QUESTION #1

FIVE (5) LARGE COMMERCIAL CUSTOMERS ON THE EQUITABLE GAS COMPANY DISTRIBUTION SYSTEM

ANSWER TO QUESTION #2

THE VOLUME OF NATURAL GAS DELIVERED IN MCF WAS AS FOLLOWS:

YEAR:1999

		QUARTER		
1ST	2ND	3RD	4TH	TOTALS
66,690	26,012	9,102	42,110	143,914

DOCKETED
OCT 21 2004

YEAR:2000

		QUARTER		
1ST	2ND	3RD	4TH	TOTALS
61,782	16,350	10,367	47,869	136,368

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YEAR:2001

		QUARTER		
1ST	2ND	3RD	4TH	TOTALS
63,116	12,557	8,362	29,842	113,877

YEAR:2002

		QUARTER		
1ST	2ND	3RD	4TH	TOTALS
44,480	11,896	6,652	38,516	101,544

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YEAR:2003

		QUARTER		
1ST	2ND	3RD	4TH	TOTALS
52,582	11,700	6,822	35,434	106,538

YEAR:2004

		QUARTER		
1ST	2ND	3RD	4TH	TOTALS
46,523	0	0	0	46,523

ANSWER TO QUESTION #3

WE HAVE NO KNOWLEDGE OF ANY CUSTOMER COMPLAINTS OR DISPUTES.

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NiSource

ORIGINAL

Mark R. Kempic
Senior Attorney
Legal Department

650 Washington Road
Pittsburgh, PA 15228
(412) 572.7142
Fax: (412) 572.7162
mkempic@nisource.com

VIA OVERNIGHT MAIL

DOCUMENT FOLDER

August 26, 2004

RECEIVED
AUG 26 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17210-3265

RE: Investigation into Competition in the Natural Gas Supply Market
Docket I-00040103

Dear Secretary McNulty:

Enclosed please find the original and 11 copies of pages 2 and 3 of Columbia Gas of Pennsylvania, Inc.'s answers to the questions appearing in Annex A of the Commission's May 28, 2004 Order in the above-stated docket. Please docket the original and ten copies and date stamp the extra copy and return it to me in the enclosed envelope. As directed by the order, an electronic copy of Columbia's response is also provided.

These pages were erroneously omitted from the previously provided information. I apologize for any inconvenience that this may have caused.

As always, if you have any questions please call me at 724.416.6328 or e-mail me at mkempic@nisource.com.

Sincerely,

Mark Kempic

Mark Kempic

cc: T. Murphy
D. Haddad
S. Bardes-Hasson
K. Christman
E. Evans

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Columbia Gas of Pennsylvania, Inc.'s security requirements for natural gas suppliers appear on page 187 and 188 of Columbia's tariff. No changes have been made to these security requirements since they were approved by the Commission on April 6, 2000. The tariff provisions are reproduced below.

2.4 NGS CREDITWORTHINESS

2.4.1 As part of the Initial NGS Application process, an NGS must meet the standards and fulfill the obligations of creditworthiness as required under this Paragraph of these Rules Applicable to Distribution Service before being permitted to provide Natural Gas Supply Services on the Company's system.

2.4.2 The Company will require the NGS to provide financial information in order for the Company to establish the NGS's creditworthiness. The NGS shall provide the Company with the financial information that it provided to the Commission, as well as the NGS's most current financial information. In addition, the Company may request the NGS to furnish the following financial information:

- Credit reports,
- Bank References,
- Audited Financial Statements, Annual Report, 10K or 10Q prepared in the past 12 months,
- Confirmation that the NGS is not operating under any bankruptcy or insolvency law,
- Confirmation that no significant lawsuits or judgements are outstanding,
- Confirmation that the NGS is not aware of any adverse condition which could cause a material change in financial condition,
- A list of parent company and other affiliates,
- Names, addresses and telephone numbers of three trade references, and/or
- Additional financial related information as determined by the Company.

2.4.3 The creditworthiness evaluation will be based on standard credit factors such as previous history, Dun & Bradstreet financial and credit ratings, trade references, unused line of credit, and financial information. The Company shall determine creditworthiness based on the above criteria but will not deny creditworthiness without reasonable cause.

2.4.4 A non-refundable fee of $100.00 will be charged for each evaluation to offset the cost of determining the NGS's creditworthiness. The Company reserves the right to conduct evaluations on an as-needed basis. The Company will bill the NGS the $100.00 non-refundable fee for such evaluations but will limit the number of charges to two per year.

2.4.5 In those instances where an NGS is providing Natural Gas Supply Services pursuant to Paragraph 3 of these Rules Applicable to Distribution Service, the Customer is ultimately responsible to the Company for the payment of any invoices, fees, imbalance purchases, banking and balancing charges, OFO or OMO charges, penalties or other charges arising out of the NGS's provision of Natural Gas Supply Services to that

Customer. NGSs providing Natural Gas Supply Service to Customers pursuant to Paragraph 3 of these Rules Applicable to Distribution Service shall not be required to provide a bond or other financial security instrument unless based upon the Company's creditworthiness requirement such bond or other financial security instrument is necessary.

2.4.6 In those instances where an NGS is providing Choice Natural Gas Supply Services pursuant to Paragraph 4 of these Rules Applicable to Distribution Service, the NGS, rather than the Customer, is ultimately responsible to the Company for payment of all fees and charges set forth in Paragraphs 2 and 4 of these Rules Applicable to Distribution Service. The NGS shall be required to provide a bond or other financial security instrument in an amount that the Company will determine based upon the information provided pursuant to Paragraph 2.4.2 and in a consistent manner as provided in Paragraph 2.4.3. All fees and charges under Paragraph 4 of these Rules Applicable to Distribution Service may be recoverable against the bond or other financial security instrument required of the NGS. The bond or other financial security instrument shall be due and payable upon default and shall cover the NGS's obligations under the Act, including without limitation Section 2207(k) of the Act, and must also provide for payment of Company-imposed fees. Additionally, if the Commission so finds and orders, an additional bond or other financial security instrument may also provide for restitution for customers and Commission-imposed financial penalties, in an amount determined by the Commission.

IGS ENERGY
INTERSTATE GAS SUPPLY | 5020 BRADENTON AVENUE DUBLIN, OH 43017 614.923.1000 T 614.923.1010 F

August 25, 2004

04 AUG 30 AM 9:31
SECRETARY'S BUREAU

James J. McNulty, Secretary
Common Wealth Of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa 17105-3565

DOCUMENT FOLDER

RE: Investigation into Competition of the Natural Gas Market// Docket No. 1-00040103

Dear Mr. McNulty:

Enclosed please find an original and 11 copies of:

1. **Answer of Interstate Gas Supply, Inc. to Commission Order Requesting Information for §2204(g) Investigation of Natural Gas Supply Market, Annex A, Natural Gas Suppliers;**
2. **Testimony of Interstate Gas Supply, Inc.; and**
3. **One Floppy Disk containing the above mentioned documents.**

Please file them and return one copy of each to me in the enclosed stamped-self addressed envelope.

Sincerely,

Vincent A. Parisi

Enclosures
VP/rs

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17105-3265

Investigation into Competition in
The Natural Gas Supply Market — Docket No. I-00040103

ANSWER OF INTERSTATE GAS SUPPLY, INC. TO COMMISSION ORDER REQUESTING INFORMATION FOR §2204(g) INVESTIGATION OF NATURAL GAS SUPPLY MARKET, ANNEX A, NATURAL GAS SUPPLIERS

Now comes Interstate Gas Supply, Inc. ("IGS"), a licensed natural gas supplier in the State of Pennsylvania, submits the following responses to the questions presented in Annex A, Natural Gas Suppliers, in compliance with the Pennsylvania Public Utility Commission's Order, dated May 27, 2004 in the above referenced docket:

1. Request No. (1): Number of customers (by class) for each distribution system on which the supplier operates.

RESPONSE: Prior to the fourth quarter, 2000, IGS did not conduct business in the State of Pennsylvania and, therefore, no information is available. Beginning with the fourth quarter, 2000, please see the attached chart detailing the total number of IGS customer accounts by quarter, separated by account type, usage and rate per ccf ("Summary Chart"). The Summary Chart is attached and incorporated by reference as Exhibit A. In Pennsylvania, IGS operates only on the Columbia of Pennsylvania distribution system and, therefore, all information presented on the Summary Chart relates to IGS' customers on the Columbia of Pennsylvania distribution system.

2. Request No. (2): Volume of natural gas delivered to customers (by class) on each system on which the supplier operates.

RESPONSE: *See* Ex. A.

3. Request No. (3): Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue [sic] competition-related issue.

RESPONSE: IGS has had zero (0) formal complaints and approximately nine (9) informal complaints/disputes presented to the Bureau of Consumer Services (BCS) regarding various issues during the relevant period. Of this number, 4 involved disputes regarding pricing, 1 involved a dispute regarding a claim of unauthorized switching, 1 involved a claim that IGS failed to sign the person up timely and 3 involved cancellation disputes. All were resolved and documentation provided to BCS.

Respectfully,

Vincent A. Parisi
General Counsel, Interstate Gas Supply, Inc.
Interstate Gas Supply, Inc.
5020 Bradenton Ave.
Dublin, OH 43017
(614) 734-2649
(614) 923-1010 (facsimile)

CERTIFICATE OF SERVICE

The undersigned counsel certifies that a true and accurate copy of the foregoing Answer of Interstate Gas Supply, Inc. to Commission Order Requesting Information for §2204(g) Investigation of Natural Gas Supply Market, ANNEX A, Natural Gas Suppliers, was filed with the Secretary of the Public Utility Commission of Pennsylvania, on August 26, 2004 by First Class mail, with ten (10) copies and an electronic diskette, upon the following:

James J. McNulty, Secretary
Common Wealth of Pennsylvania
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Vincent A. Parisi

Exhibit A

Columbia of Pennsylvania: number of IGS customers and usage by quarter, 2000-2004.

Year/Quarter	Commercial Accounts customers	Commercial Accounts Usage (Mcf)	Residential Accounts Customers	Residential Accounts Ussage (Mcf)
2000				
Q1	577	30,866	9,864	563,129
Q2	576	20,016	9,746	191,831
Q3	562	3,955	9,493	57,710
Q4	554	26,900	9,253	259,398
2001				
Q1	510	56,971	8,209	496,841
Q2	486	16,971	7,574	158,735
Q3	440	4,969	6,320	29,995
Q4	359	13,217	4,509	95,463
2002				
Q1	393	36,629	4,147	206,470
Q2	372	14,002	3,937	84,839
Q3	362	3,158	3,803	22,190
Q4	351	17,667	3,731	105,696
2003				
Q1	338	41,373	3,456	221,626
Q2	334	10,388	3,383	61,493
Q3	327	2,991	3,323	19,450
Q4	323	14,583	3,265	86,603
2004				
Q1	314	37,325	3,161	188,994
Q2	305	10,880	3,099	61,113

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
HARRISBURG, PA 17105-3265

Investigation into Competition in
The Natural Gas Supply Market   Docket No. I-00040103

TESTIMONY OF INTERSTATE GAS SUPPLY, INC.

Interstate Gas Supply, Inc. ("IGS"), a licensed natural gas marketer in the Commonwealth of Pennsylvania, hereby submits the following written testimony in response to the above referenced investigation being conducted by the Pennsylvania Public Utility Commission regarding the state of the Natural Gas Supply Market in Pennsylvania and its Order, dated May 27, 2004 in the above referenced docket.

I. Introduction

Interstate Gas Supply, Inc. ("IGS") is a natural gas marketer and supplier of natural gas in the Commonwealth of Pennsylvania, and also conducts business of the same or similar nature in Ohio, Michigan, Kentucky and Illinois, either through its own efforts or through the efforts of a subsidiary corporation. IGS has over fifteen (15) years of experience in the natural gas marketplace, and was one of the original natural gas marketers in Ohio. Currently, IGS has limited its marketing efforts in Pennsylvania to Columbia of Pennsylvania's distribution system and territory. IGS also has customers behind Columbia of Ohio, Columbia of Kentucky, Dominion East Ohio, Vectren, Cincinnati Gas and Electric, Northern Illinois Gas Company ("Nicor"), and Michigan Consolidated Gas Company ("MichCon"). IGS has found, through its fifteen years in the natural gas marketplace, that overall competition has resulted in significant savings to residential, commercial and industrial consumers. For example, in Ohio, natural gas customers that have chosen IGS as their supplier have saved in excess of $46,000,000.00 between 1998 and April, 2004, compared to the incumbent utility. Additionally, over 1 million residential consumers currently participate in Ohio's Choice residential market and have selected a natural gas supplier that is not the incumbent utility company.[1]

II. Testimony

The Commission has requested testimony pursuant to its review of the state of natural gas competition in the Commonwealth of Pennsylvania. Specifically, the Commission has requested testimony on the following topics: (1) The assessment of the level of competition in Pennsylvania's natural gas supply service market; (2) The effect of the price of natural on competition; (3) the effect of consumer education on competition; (4) The effect of customer information/service on competition; (5) the effect of supplier financial security requirements on competition; (6) the effect of natural gas distribution company penalties and other costs on competition; and (7) Discuss any avenues, including legislative, for encouraging increased competition in Pennsylvania. IGS will address each topic in turn.

1. IGS' Assessment of the Level of Competition in Pennsylvania's Natural Gas Market.

From IGS' perspective, the competitive level of the Pennsylvania natural gas marketplace is encouraging. In Pennsylvania, IGS currently has customers only on the Columbia Gas of Pennsylvania ("CPa") system. With respect to CPa, IGS has a good working relationship with CPa and has found that CPa's approach to the competitive marketplace in Pennsylvania has encouraged and fostered competition. CPa's approach to the competitive marketplace is one of the reasons IGS chose to market on the CPa system.

While encouraging, the level of competition could be substantially improved. Specifically the level of competition can be increased through the purchase of receivables, minimizing the

[1] Public Utility of Ohio, *Natural Gas Customer Choice Program Customer Enrollment Levels*, July, 2004, available at www.puc.state.oh.us/PUCO/StatisticalReports/Reports.

purchase cost associated with purchasing receivables, eliminating excessive imbalancing fees by tying those fees to actual cost resulting from the imbalance, increasing consumer education and encouraging the utilities to embrace the programs and to communicate a positive message to consumers regarding choice. These issues will be addressed more fully in the following sections.

2. <u>The Effect of the Price of Natural Gas on Competition.</u>

The market price of natural gas continues to be volatile, although this has not always been the case. In the current market, which does not appear to be stabilizing anytime soon, the existence of a regulated price against which marketers have to compete, primarily with respect to residential customers, has a restrictive effect on competition. Whether or not marketers want to compete against a regulated price, in most markets it is or becomes the price to compare the marketer price against. A marketer's fixed or variable price, which is a distinctly different product from a regulated price (which is adjusted periodically and has a prior period cost recovery factor imbedded in the formula to account for over and under estimations on the anticipated actual costs for the utility), is nonetheless compared to the regulated price by residential consumers. Since the regulated price is not and, by the nature of the formula utilized to calculated the regulated price, cannot be a reflection of the than current market prices marketers and the utilities pay for the natural gas commodity, marketers and ultimately residential customers are at a disadvantage. The disadvantage exists because a marketer might have a fixed price offer that would guaranty a customer a stable rate through what have become volatile winters, but if the rate is not below the then current regulated price, consumers will typically not make the change. The same is true with a variable price offer. Ultimately, to make the natural gas market competitive, artificial prices need to be removed from the equation.

3. The Effect of Consumer Education on Competition

One of the most significant factors that affects the success or failure of a competitive marketplace is consumer education and the utilities embracing competition. Consumer education in the form of mailers, seminars, informational sessions and information on websites is only a small part of what needs to occur for competition to be successful. In order for customers to know about, understand and ultimately make an educated choice about purchasing competitive services, the consumer must first know that competition exists. Beyond knowledge of the existence of competition, however, even more critical to its success is education of utility customer representatives that have contact with utility customers on the proper manner of consumers education. If the utility representatives do not know about competitive services and have not been properly trained on how to respond to inquires regarding competitive services, competition will not survive. If the utilities are not encouraged to create an atmosphere that nurtures and fosters competition when contacted by customers regarding competition, customers can be forever turned off to competition. Since the majority of residential customers have had only utility services, they will rely upon the utilities representations regarding competition when making a decision or forming an opinion regarding competition. If the utility has a negative position regarding competition, competition will fail. Therefore, it is critical that consumer education goes beyond mailers and seminars, but rather is embraced by the utilities from the perspective of the general public.

4. The Effect of Customer Information/service on Competition

Marketers rely upon customer information provided by the utility. In fact, the information provided by the utility related to customers is critical to marketers maintaining relationships within a specific utility area. Since the marketer does not read meters and does not provide invoices, the customer information gathered, recorded and provided by the utility to the marketer is essential. Additionally, since the utility has access to their entire database of current customer information, utilities that provide customer lists to marketers are even more desirable to marketers. IGS has found that utility provided lists are the single best resource for conducting marketing campaigns, and without the lists, enrollment and participation is significantly impacted. Permitting and even requiring utilities to provide the customer lists would significantly increase competitive interest. At this time CPa provides a list, for a fee, as well as Dominion. IGS is not aware if other utilities provide customer lists.

5. The Effect of Supplier Financial Security Requirements on Competition

Requiring a security deposit, if it is not based on definitive credit worthiness criteria, can have an anti-competitive effect. To foster competition, security deposit requirements should be related to credit concerns the utility establishes regarding financial stability. CPa requires a security deposit for a marketer to enroll customers on its system. IGS believes that the security deposit requirements behind CPa have been reasonable. However, it is IGS' understanding that not all security deposit requirements are as reasonable. A security deposit requirement should be tied to identifiable credit criteria that are clearly delineated. If a marketer can present financial statements that demonstrate an acceptable financial picture or has an S&P, Moody, or Dun & Bradstreet rating at an acceptable level, the security deposit requirement should so reflect. Additionally, various forms of security should be acceptable as collateral, including cash, letters of credit, parental guaranty based upon the creditworthiness of the parent, bonds, and other forms of similar collateral. By permitting various forms of collateral, marketers can more effectively maximize resources while meeting the credit requirements of the utilities.

6. <u>The Effect of Natural Gas Distribution Company Penalties on Competition</u>

Penalties associated with over and under delivery of natural gas can be a significant hindrance to competition for two reasons. First, excessive fees create financial risk that discourage a marketer from entering into a market. Second, excess penalties are often credited to the utility sales customers, subsidizing their commodity cost and contributing to an artificial price to beat. Generally, the fee assessed by a utility to a marketer for over or under delivering natural gas should be consistent and should reflect the actual costs incurred by the utility for the over or under delivery event. When a charge for over or under delivery is excessive and does not accurately reflect the economic impact associated with the event, it can be an anticompetitive factor. For example, in the summer months, over or under delivery is often neither beneficial to the marketer nor detrimental to the utility. However, a penalty may nevertheless be assessed by the utility for over or under delivery of natural gas. One utility charges a fee of $75.00 per mcf for failing to meet the daily base load requirements. Although IGS strongly supports base load nominations, an error in a daily nomination during a non-critical period should not result in a penalty of $75.00 per mcf, in addition to any actual costs incurred by the utility.

Although IGS recognizes that the amount of the over or under delivery penalty is intended to be a deterrent to marketers taking advantage of the system, when there is no advantage present, no actual damages to the utility and/or the incorrect nomination is inadvertent, a penalty is not necessary and deters marketers from entering the market. Since the utilities retain the right to charge actual expenses incurred by the utility for over or under delivery by a marketer, the penalty is unnecessary. Further, during non-critical days, such occurrence should not result in a penalty being assessed in addition to the actual expenses incurred by the utility, unless abuse has occurred. An abusive event can be tied to both frequency of failure to deliver base load amounts and the timing of the event. Regardless, the penalty should not be so restrictive that it deters a marketer from entering the marketplace.

7. Avenues for Encouraging Increased Competition in Pennsylvania

In responding to the previous six questions we have cited several ways to increasing competition, including removing or reducing artificial price signals, increasing consumer education but more importantly getting the utility onboard when communicating with customers, keeping financial requirements reasonable, and eliminating excessive penalties which are not cost based and subsidize utility sales customers. In addition to the foregoing, we will also discuss the positive attributes of purchasing receivables.

A. Purchase of Receivables

The purchase of receivables is a significant factor for IGS when deciding whether to compete in a market for a number of reasons. When a utility does not purchase receivables, the increased costs in time, money and lost opportunity associated with marketing to and maintaining residential customers behind a utility that does not purchasing receivables can and does reduce the marketer's desire to enter that marketplace.

With respect to the purchase of receivables, the time, capital/risk and opportunity costs all need to be considered by a marketer when deciding to enter a market.

i. Increased Time Costs.

With respect to the costs associated with increases in time to enter a market, participating in a program that does not purchase receivables necessitates a significant increase in development and implementation of software systems and infrastructure, IT maintenance and increased demand on IT professionals. When a utility does not purchase receivables, a marketer must track each individual residential customer account on an individual basis to ensure that timely and accurate information is being retained and communicated between the utility and marketer and, ultimately to the customer.[2] This requires an accounting and inventory software system that can communicate with the utility on a continuous basis to ensure that the information gathered by the utility is timely and accurately communicated to the marketer and that accurate and timely records of the same are being stored, maintained and communicated to the customer.

In essence, when a utility does not purchase the residential receivables, a marketer needs to have a software system that is capable of producing bill ready information and an accounting software system that can maintain each individual account with respect to natural gas supplied, invoiced, consumed, credits and payments, as well as age individual accounts.

Additionally, since the utilities do not typically operate on the same or even similar software systems, there are also time costs associated with ensuring that the software system that a marketer utilizes can communicate with the software system that the utility maintains. Since the utilities have already created such systems and need to bill the customer for the transportation charges regardless of who provides the commodity portion of the natural gas service, in many instances creation of such a system would not only take time but would be redundant.

The creation and implementation of a bill ready software system must be achieved before a marketer can enter a market where the utility does not purchase receivables. With the relatively short periods of time available to marketers with respect to marketing opportunities, given the need in most markets for marketers to compete against regulated prices that often do not reflect the than current market price of natural gas, the significant lead time required to enter a market when receivables are not purchased can and does deter market entrants. With the

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[2] This in part assumes that the utility is providing the customer with a consolidated bill that includes both the utility's charges as well as the marketer's charges. Although timely and accurate information is always necessary regardless of which entity is providing the monthly bill, when the billing is being provided by the utility and the receivable is being purchased by the utility, a marketer can more comfortably rely upon the aggregate information being provided by the utility on a monthly basis.

increased time investment associated with marketing and maintaining business on a utility system where the utility does not purchase the receivables, often for this reason alone marketers are inclined to dedicate their resources to markets where receivables are purchased by the utility.

ii. Increased Costs

As a continuation of the theme in the previous section, when a utility does not purchase receivables, in addition to the increased time necessary to develop, maintain and manage the software infrastructure, there is an associated increase in capital investment that is necessary to obtain and maintain such a system. Given the relatively small margins that a marketer can charge and remain competitive when offering products to customers, the significant capital expenditure associated with tracking, accounting for and collecting the receivables makes entry into such markets less palatable. With the significant costs associated with marketing, enrolling and maintaining a customer base, the increased costs associated with developing and maintaining a more substantial software system does not encourage marketers to enter the marketplace. When many utilities are willing to prepare and send the monthly customer invoice with the marketers charges included and maintain and collect the receivables, with little or no fee for that service, marketing behind a utility that does not purchase receivables becomes a more difficult and expensive proposition.

iii. Increased Risk

A third reason marketers are more inclined to invest resources in a market where the utility purchases receivables is the increased risk associated with collecting receivable. Given the small margin that is associated with natural gas accounts, if the marketer also had to dedicate resources to tracking, aging and collecting the receivables, along with the loss associated with uncollectable accounts, the desirability of the market is reduced. Additionally, given the significant financial investment that is required when the marketer is responsible for the receivables, a marketer is inclined to dedicate the resources to a market where receivables are not an additional risk and the receivable cost is a known factor.[3]

B. Fees Associated with Purchase of Receivables

The purchase of receivables by a utility encourages competition. IGS recognized that a utility that purchases receivables has the collection risk and that there is an associated cost. Although it is understandable that the utility does not want to assume the risk of collection without a mechanism in place to recover uncollectable receivables, it is imperative that the mechanism is based upon actual bad debt costs and does not encourage abuse and waste. Abuse and waste occur when a utility purchases receivables and the utility is not able to terminate service to a residential consumer that does not pay for the service. If the utility has purchased the receivable, the marketer will get paid regardless of the individual customer's failure to pay. Since the marketer will get paid regardless of payment by the individual consumer, even if the marketer is permitted to drop the individual customer from the program for non-payment, the marketer will not know that payment has not been made and will, therefore, not drop the customer for non-payment. If the utility is not permitted to terminate service, a customer could simply sign up with a marketer behind a utility that purchases receivables and never pay a bill, but continue to get service. Ultimately, the marketer will pay in increased receivable purchase costs. In fact, that appears to be the situation currently with CPa. Since CPa purchases receivables, IGS continues to supply natural gas to all of its residential customers, regardless of payment. Since CPa is restricted from terminating service to such customers, through no fault of

[3] Utilities that purchase receivables will do so for a specific percentage, typically between one and two percent, but can be as high as five percent, which is a defined percentage.

CPa, non-payment has increased to a level significantly above what has been IGS' experience with all other utilities. The system, ultimately, encourages a residential customer to sign up with a marketer and not pay his or her bill thereafter. The utility cannot terminate service and the marketer will not have knowledge that the individual customer has not paid and will not terminate the customer from the program. The result is higher costs to the marketer.

In order to reduce the cost associated with the purchase of receivables, it is essential that the utility be able to terminate service to a non-paying customer that has elected to purchase its natural gas from a marketer, and do so without first dropping the customer from the program. This will enable the utility to reduce bad debt and will ultimately reduce the charge associated with the purchase of receivables, while keeping consumers enrolled in the program.

Another issue regarding the purchase of receivables and, ultimately, increasing the level of competition in the natural gas market, is instituting a bad debt tracker. A bad debt tracker enables the utility to account for uncollectable debt and to pass the cost associated with bad debt to all natural gas consumers equally, regardless of whether they are with the utility or a marketer. Where a bad debt tracker has been instituted, some utilities are able to purchase the receivables for no fee, or a much lower fee of between one and two percent (1%-2%). This enables the utility to purchase the receivables and does not disadvantage sales or transportation customers, treating all customers equally. By doing this, there is no charge to the marketer and 100% of the marketers revenue is paid to the marketer, and the utility is made whole for bad debt. Also, it creates a more competitive market because customers that have chosen to use a natural gas supplier for the commodity portion of their service are not treated differently than those that have remained with the utility for all services.

III. Conclusion

IGS is encouraged by the level of competition in Pennsylvania and anticipates increasing its marketing efforts in Pennsylvania. IGS would be inclined to market behind additional Pennsylvania utilities if the issues addressed herein were standardized throughout the utilities. When the utility purchases receivables at a cost-reflective level, is flexible on penalties and ties penalties to critical periods and has reasonable security requirements, IGS is more eager to enter the market. Pennsylvania has benefited its residents and businesses by permitting and encouraging competition in the natural gas market and should continue to create an atmosphere that fosters competition. Competition benefits consumers, stimulates growth and creates savings. IGS thanks you for this opportunity to address the Commission.

Respectfully submitted,

Interstate Gas Supply, Inc.

Scott White, President
Doug Austin, Vice President
Vincent A. Parisi, Chief in house Counsel
5020 Bradenton Ave.
Dublin, OH 43017
(614) 923-1000
(614) 923-1010 (facsimile)
vparisi@igsenergy.com

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into the Competitiveness of the Natural Gas Supply Market

Docket No. I-00040103

DOCUMENT FOLDER

COMMENTS OF

T.W. Merrill
Vice President & General Manager
NRG Energy Center Pittsburgh
August 26, 2004

Introduction

In June 1999, when Governor Tom Ridge signed into law the Natural Gas Choice and Competition Act (Gas Competition Act), there was a sense across Pennsylvania, and indeed the country, that competition in the electricity industry and the natural gas industry would be the wave of the future (joining with successful competitive restructuring efforts in the airlines, trucking, financial services and communication industries). Pennsylvania's Electricity Generation Customer Choice and Competition Act was the model electricity industry restructuring act among a host of similar legislative initiatives in almost half the states in the nation. Gas competition in the industrial and large commercial market had been going on for years, and it was spreading to small commercial establishments as well. A number of well-publicized pilot programs for the offering of gas choice to residential customers seemed to be doing well. In late 1997, Governor Ridge charged the then Chairman of the Pennsylvania Public Utility Commission John Quain to form a collaborative stakeholder process that would develop in natural gas, as a similar process had accomplished for electricity, a natural gas competition act, out of which would come a competitive gas market. Of all the states, only Georgia, and subsequently New Jersey, would embark on similar journeys.

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Representatives from the gas utilities, gas marketers, gas producers, gas pipelines, consumer group advocates, labor, the Legislature, and the PUC met for over a year discussing and debating how competition would come to the residential and small commercial portions of the Commonwealth's gas market. Driven by concerns for maintaining gas industry reliability, the stakeholders (actually, a majority of the stakeholders) adopted what might be characterized as a "go-slow" approach to competition for residential and small commercial consumers over the strenuous objections of some who advocated a more precipitous "utilities-to-be-out-of-the-merchant-function-by-date-certain" approach (similar to the Georgia gas model). That hotly debated majority conclusion (certainly not a compromise or consensus position) was contained in a number of aspects of the legislation such as the approach to pipeline capacity assignment, utility business practices vis a vis the marketers, marketers' compliance with Chapter 56 regulations, and labor's concerns for personnel at the utilities. Another manifestation of this deliberate approach to competition was the "look-back" provision embodied in **§2204(g) Investigation and Report to General Assembly** see below). The majority of the stakeholders acquiesced with the concerns of some that -- just maybe -- what was being put in place by this legislation would not yield, for one reason or another, a competitive gas market for residential and small commercial customers. No one anticipated the events that would develop in California, with Enron, and with the natural gas (and electricity) trading industries.

> *"Five years after the effective date of this chapter, the commission shall initiate an investigation or other appropriate proceeding, in which all interested parties are invited to participate, to determine whether effective competition for natural gas supply services exists on the natural gas distribution companies' systems in this Commonwealth. The commission shall report its findings to the General Assembly. Should the commission conclude that effective competition does not exist, the commission shall reconvene the stakeholders in the natural gas industry in this Commonwealth to explore avenues, including legislative, for encouraging increased competition in this Commonwealth."*

An Assessment of the Competitive Gas Market

It does not appear that there is a competitive gas market for residential and small commercial consumers anywhere in the Commonwealth. That is not to say that no such consumers are exercising their choice option. The Office of Consumer Advocate's Pennsylvania Natural Gas Shopping Statistics of July 1, 2004 conveys that over 186,000

Pennsylvanians are shopping, about 7% of all eligible customers. However, that number has been dropping steadily (as of January, 2002, there were over 250,000 shoppers, or 12%). Despite an impressive number of PUC licensed marketers (76), very few are offering their services to residential customers. And, where there is more than one marketer on a given utility, there doesn't appear to be much competition between them. On one utility for a number of years (if not still the case), the utility affiliate had a market share among three marketers of 99%. There are few mass-marketing efforts; there are no media advertisement campaigns; and there are but few new and competitive products being offered by marketers. The utilities' rates change quarterly reflecting the prices being set in the wholesale market (as revealed in the futures market trading at the Henry Hub in Louisiana). The marketers are offering either one-year or multi-year fixed price offerings, or contracts with prices that change monthly. Sometimes, the marketers' offers are lower than the utility's, sometimes higher. But, in any event, the savings are marginal. As a result, there is no marketplace excitement. There is no buzz among consumers as to which marketer has the best prices, or which marketer has the most innovative products.

In part, the lack of competition in the residential and small commercial gas market is mirrored by what is happening in the older and more mature industrial and large commercial gas market. At one time, there were hundreds of marketers competing for this business. Now, there are but a handful on each utility system. The decline in marketer numbers seems to have ended at this point, and the percentage of customers buying from marketers has to be in the high nineties on most utility systems. Several utilities, however, continue to compete with marketers and offer bundled packages (gas and transportation) that most marketers cannot meet. On those systems, the market struggles as marketers stay away. Notwithstanding these systems, most industrial and large commercial customers in the Commonwealth can find more than one marketer competing for their business. There are also a plethora of consultants who are willing to help such users find marketers and negotiate good contracts. Thus, the competitive market for this sector of the market seems to be hanging on, yet, arguably, it could be much more robust as it once was.

Reasons for the Lack of a Competitive Market

It seems to this long-time competitive market participant that the reasons for there being no competitive market for residential and small commercial consumers and for a less than robust competitive market for industrial and large commercial customers are manifold. Each of the major players, except perhaps the consumer, has contributed to this anemic marketplace. From the Federal Energy Regulatory Commission (FERC) to the marketers, from the PAPUC to the utilities, from the regulatory players' (the attorneys and consultants representing the various stakeholders) inability to develop the Supplier of Last Resort concept – all have contributed to the lack of a competitive marketplace for buying and selling natural gas.

FERC Responsibility

It starts with the FERC. It was its decision to unbundle the gas pipelines' merchant function from their delivery function. This unbundling process led to the creation of a spot wholesale market for gas, where traders, and buyers and sellers could make a market. That activity allowed the New York Mercantile Exchange to create a futures market for gas at Henry Hub. Sellers and buyers then had a highly visible marketplace indicator upon which to base their sales and their purchases. Trade press publications began surveying the merchants that led to the publishing of cash prices. Another indicator of the market was born (but note that these surveys have been recently challenged for accuracy). For years, FERC nurtured this foundling market by establishing business rules for pipelines that promoted competition, e.g. monitoring and precluding certain affiliate transactions, and not allowing balancing rules and penalties (that were needed to address reliability concerns) to become too onerous.

As a result of these FERC actions, the commodity gas market grew and flourished as did to a limited degree the pipeline capacity market. With viable wholesale markets, it was possible to build a retail market for the industrial and large commercial customers. That market did well through the late 1980's and 1990's. Expanding that retail market to residential customers required not only the maintenance of the commodity market but the expansion of the pipeline capacity market as well. And here, FERC faltered (or turned its attention to electricity). Rather than allowing the marketplace to set pipeline transportation rates, it succumbed to the pipelines and others who feared the market power of certain pipelines in some sectors of the country. By and large, pipeline transportation rates remain based upon the historical cost to serve regulatory model. Without the ability to actively trade pipeline capacity, the historic owners of that capacity – the utilities – hold onto it and by so doing stifle the marketers' ability to buy and sell it, or trade it, thereby adding value to retail customers. The lack of a competitive pipeline capacity market is perhaps the primary reason for the lack of a competitive gas market for residential and small commercial customers. This conclusion is underscored by the fact that in the industrial and large commercial markets, marketers continue to obtain their own pipeline capacity, though in a much less active way since the demise (or near demise) of gas traders.

The Role Played by the Incumbent Merchants – the Utilities

From the outset, the utilities have not been excited about giving up their merchant function for residential and small commercial customers, arguably for very valid concerns about reliability, and their (probably, very realistic) belief that they would end up "holding the bag." However, the utilities were also reluctant participants at the beginning of the industrial and large commercial market. For years, they fought the marketers' "stealing" of their industrial customers with every regulatory tool at their disposal. Here in Pennsylvania, it took a resolution of the House of Representatives before the Commission established guidelines for the utilities to follow in allowing industrials to buy their own gas. Thereafter, it was still a struggle for buyers and sellers to interact with utilities on gas transportation matters. It remains a struggle today as the utilities, in the restructuring proceedings established pursuant to the Gas Competition Act, put into place difficult and even punitive business rules. Stringent creditworthiness standards, onerous balancing rules and operational flow orders – all can be, and were, justified by the utilities as being necessary for reliability. But they, and the adversarial attitude fostered by the utilities, did little to encourage the presence of marketers. After Enron, utility attitudes hardened even more, with an "I told you so" mentality, with respect both to the marketplace and to the unreliability of marketers, being more and more dominant.

It seems today that most of the utilities are ambivalent with regard to the growth of competitive markets. That ambivalence, when combined with business practices designed to maintain the status quo in the name of insuring reliability, is deadly to change. Yes, every utility's website explains how one can contact marketers and receive information about the competitive marketplace. Bill-stuffers from time to time contain similar information. Yet, there is no commitment to do more. And, it is understandably so, since the utility knows that it is and will always be the provider of last resort – unless or until a viable SOLR model is invented.

The Ennui of the Marketers

Why have the marketers not come to the party? Most likely, it is because the rules are too strict and they perceive they can't make a sufficient return on their investments required to establish a marketplace presence. Marketers have to be able to make money, or think that they can make money. At the outset of the C&I market, there were hundreds of marketers competing with one another. "All you need to be a marketer is a roll of quarters and a phone booth" was the saying of the day, and it was more or less true. As the market grew, back-office capability and financial strength became important aspects of a marketing company. Nonetheless, before marketer registration in some states and licensing in others like here in Pennsylvania, marketers were free agents (in that they appeared in markets or left markets frequently), and buyers had to be wary of who had substance, and who did not, or who was likely to have staying power, and who did not.

Registration and/or licensing of marketers came from the electric restructuring industry. There, it was a conscious decision to make the competitive markets open to all consumers, and not just the industrial and large commercial users as was the case with natural gas. The consequence of that decision was the need to "regulate" marketers in order to protect consumers from the "n'er-do-wells" and the market exploiters, let alone the out-right crooks. Whether it was those necessary regulations, or the timing of the fall of Enron and the loss of energy trading, or the adversarial utility restructuring proceedings, or the mandatory assignment of capacity, few new marketing entities entered the market desiring to sell gas to residential and small consumers. Certainly, the existing C&I marketers saw nothing of a money-making potential in selling gas to residential consumers in Pennsylvania, and with but a few exceptions stayed away from the residential market. There are too few marketers interested in this business, and they are not competing with each other for this business. The bottom line is that marketers have stayed away from R & SC markets. They have not come to the party.

The Regulatory Players Are Certainly Not Change Agents

The Regulatory Players are those attorneys and consultants who practice regularly before the Commission. They represent the Commission (Office of Trial Staff), and the consumers (Office of Consumer Advocate, Office of Small Business Advocate, the law firms representing industrials). Marketers have tried to join this group, but after Enron bowed out, only utility-affiliate marketers and the larger marketers were able to hire regulatory personnel and the necessary lawyers to try to become regulatory players. The history of utility regulation, and all that regulatory players know, is that the adversarial process is the best vehicle for presenting the Commission with opposing sets of "facts" upon which it cuts with the sword of Solomon. Collaboration, the regulatory players believe, despite the Commission's sincere effort to spawn settlements in numerous proceedings, is but an aberration. By and large, the regulatory players are much more comfortable with the adversarial process than they are with the collaboration process.

Yet, collaboration is fundamentally necessary if new competitive markets are to grow. Utilities **must** collaborate with marketers, and perceive them not as "stealers of their markets" but as trade allies, if competitive markets are to develop. Users and marketers have to appreciate that if the age-old utility monopoly is to be destroyed, then their collaboration with each other, and with the utility, is a pre-condition to markets. If we're ever to figure out how competitive markets will leave no residential consumer behind, then the regulatory players have to figure out the POLR or SOLR concept.

The POLR (Provider of Last Resort, an electricity term) or the SOLR (Supplier of Last Resort) are new concepts to the historic regulatory world. They arise because of the appreciation that if the utility is no longer going to be a merchant, then some entity must perform that role. Defining that entity and determining how it can set its prices is a difficult task in that there must be assurance that price gouging not occur, that there are sufficient financial incentives for someone to want to play the role, and that the entity will not disappear into the night. The regulatory players in several states have tried to craft a POLR entity, and arguably no one has yet succeeded. In part, this is true because the concept is so brand-new, and yet so much like the utility of old, that it defies definition. On the other hand, the concept hasn't been defined because the process being used doesn't lend itself to invention. The adversarial process so familiar to the regulatory players may have been adequate for the old monopoly world where the game is a zero-sum game. In most cases, it came down to dividing a given amount of money among the contending parties. The new world of competition, however, is not a zero-sum game. It is a game without limits, as players constantly come and go. The POLR or SOLR will be discovered when real collaboration appears, when the best minds of the regulatory world apply themselves to the creative process of invention.

The Role of the Commission

Competitive energy markets will not develop without a substantial amount of pushing from the Commission. The FERC appreciated that as it developed the competitive gas commodity market. It is appreciating it again as it tries to develop wholesale power markets (note how the entrenched incumbents have obtained the backing of state political spokespeople). The Commission has to expand on its role – its mission – as the Steward of Competition and become the advocate or champion of competition. This is the most difficult task of all, especially after California, and after Enron. Almost everyone's confidence in the functioning and in value of energy markets for residential consumers has eroded. The Commission is charged with protecting the consumer; it does this by regulation. Markets protect the consumer; they do so by competition. For the Commission to make that leap to markets is akin to turning itself inside out, especially at this point in time. Yet, the voice of the Legislature as embodied in both the Gas Competition and the Electric Competition Acts is clear: grow competitive energy markets and make sure every consumer has a choice of gas and electricity vendors.

Fortunately, there are ways to encourage the growth of competitive markets before making that final leap across the chasm. Utility business practices can be re-examined and evaluated against a market-friendly rather than the reliability-only standard. The Commission could create a market ombudsman who would look at every Commission practice, policy, or proceeding with an eye toward how it advances or retards the development of markets. As was argued in the recent POLR proceedings, the easy place to begin is with the C&I market. It already exists, but it can be made more healthy. The Commission needs to understand what it can do to make it so. It can determine the process for defining the SOLR. If there is no independent SOLR, the utility will never get out of the merchant function. If it never gets out of the merchant function, there never will be a competitive residential and small commercial market.

Marketplace Development Fallacies

It should be noted, that in the opinion of this marketplace advocate, the Commission should not be concerned with educating or informing consumers, as was the case in its efforts to grow the electricity market. Advertisement campaigns cost a lot of money. They make their sponsors feel good especially after the surveys performed by public relations firms or consultants display high levels of consumer awareness. Yet, the marketplace is the best place for product and price knowledge to be conveyed. Consumers will be informed and educated when the markets develop, not before. If there aren't players competing with one another, the public will not be informed. The bad apples will be identified and cast aside.

Some have argued that competitive gas markets haven't developed because the price of gas has risen so much. Such people are missing the fact that markets function in times when prices rise and when they fall. Certainly, no one likes to see prices rise when he or she is buying, and we all certainly expect that prices will fall when there is active competition among sellers. But markets are more than just prices. In times when prices are rising, a marketer competes by finding ways to add more value to his product than his competitors do. As a current buyer of natural gas, I expect to see rising gas prices for some time. In a recent gas vendor selection process, I made my decision not on the lowest gas price, or even the lowest basis price, but on value. I chose a gas supplier according to which of the three competitors vying for my plant's gas requirements would do the best job in eliminating balancing costs, and in implementing a hedging strategy.

Conclusions

What then should the Commission say in its report to the General Assembly? It must certainly report that the competitive gas market for residential and small commercial customers barely exists and hasn't grown as expected. Therefore, it would seem to this marketplace advocate, to be in compliance with §2204(g) of the Natural Gas Choice and Competition Act, the Commission has to reconvene the stakeholder collaborative. The collaborative when convened is likely to appreciate that the primary reason a competitive gas market doesn't exist in the Commonwealth is the lack of marketers interested in competing with one another for this business. The discussion will then arise as to why the marketers are not participating. As argued above, to address this most critical issue, the Commission should have the collaborative address three critical areas:

- Revisit Capacity Assignment (which would also entail communication with the FERC with regard to the need to develop the pipeline capacity market)

- Re-examine utility business practices with a focus on removing barriers to competition rather than just upon preserving reliability

- Develop the SOLR concept such that by a date certain, the utilities can leave the merchant function if various parameters have been met

In addition, the Commission should become a more active Steward of Competition by establishing a new Office of Competition that would have ombudsman powers in developing markets. Perhaps the first function of that new Office would be to manage the "look-back" collaborative.

Respectfully Submitted

T. W. Merrill

August 26, 2004

ORIGINAL

pepco
Energy Services

August 26, 2004

DOCUMENT FOLDER

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AUG 26 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Mr. James J. McNulty
Secretary
Pennsylvania Public Utility Commission
The Commonwealth Keystone Bldg.
400 North St.
Harrisburg, PA 17120

Via Federal Express

Dear Mr. McNulty:

In its Order entered in Docket No. I-00040103, the Commission provided interested parties with an opportunity to file testimony on the level of competition in the retail natural gas market in Pennsylvania. Enclosed is the testimony of Pepco Energy Services, Inc. in this proceeding.

Should there be any questions concerning this document, please contact me at 703-253-1651.

Sincerely,

Mark S Kumm

Mark S. Kumm
President, Asset Mgmt. Group
Pepco Energy Services

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1300 North 17th Street • Suite 1600 • Arlington • VA • 22209 • 703-253-1800 • Fax 703-253-1698 • www.pepcoenergy.com

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF	)	
Investigation Into Competition	)	
In the Natural Gas Supply	)	**Docket No. I-00040103**
Market	)	

VOLUME I OF I: DIRECT TESTIMONY OF PEPCO ENERGY SERVICES' WITNESS MARK S. KUMM

Pepco Energy Services, Inc.
1300 N. 17th, Suite 1600
Arlington, VA 22209
(703) 253-1800

August 27, 2004

PEPCO ENERGY SERVICES, INC.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DIRECT TESTIMONY OF MARK S. KUMM

DOCKET NO. I-00040103

Q. PLEASE STATE YOUR NAME AND POSITION WITH PEPCO ENERGY SERVICES.

A. My name is Mark S. Kumm. I am President, Asset Management Group. My business address is 1300 North 17th Street, Suite 1600, Arlington, Virginia. A statement of my occupational and educational history and qualifications is appended to my testimony.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. On May 28, 2004 the Commission entered an Order establishing a proceeding to investigate the level of competition in the natural gas supply market in Pennsylvania. Pursuant to the Commission's Order providing interested parties an opportunity to submit testimony, I am sponsoring this direct testimony on behalf of Pepco Energy Services, Inc. (PES). In this testimony I will first provide an overview of Pepco Energy Services' natural gas supply operations in Pennsylvania, and then address two of the seven topics identified by the Commission in its May 28th Order. My testimony will be focused on information that is required to assess the level of competition in the natural gas supply market in Pennsylvania, and on avenues for encouraging competition in the gas supply market in Pennsylvania.

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS.

- With the exception of data collected for the residential customer segment by the Pennsylvania Office of Consumer Advocate, information on the level of competition in the Pennsylvania natural gas supply market is largely not publicly available. Without this basic information, an assessment of the level of competition cannot be effectively performed by outside observers. The Commission has made a good first start toward compiling this information by directing the natural gas distribution companies (LDCs) to provide historical information that can be used to calculate the market share served in aggregate by competitive suppliers. However, this directive should be modified to be an ongoing reporting requirement, and the Commission should post the information that it receives from the LDCs on its web site, by class.
- The Commission should adopt a number of changes to the natural gas market for all of the LDCs in Pennsylvania, and for all classes, including the adoption of electronic data interchange (EDI) for all customer classes, the implementation of an Administrative Charge component of the LDC commodity price, and the adoption of more standardization of the design of individual LDC markets.
- The Commission should also modify certain operational methods that some LDCs are currently using for competitive suppliers. For example, to assist competitive suppliers in better matching gas deliveries to customer usage, the Commission should direct Dominion Peoples, Columbia Gas of

Pennsylvania, and UGI to provide suppliers with daily estimates of the usage of customers served as soon a practicable after the completion of each gas day. The Commission should also direct Dominion Peoples to improve its methods for customer enrollments and drops. These will help reduce prices to consumers and encourage further competitive activity in these service territories.

Q. PLEASE DESCRIBE PEPCO ENERGY SERVICES' NATURAL GAS OPERATIONS.

A. PES is a licensed competitive supplier of natural gas and electricity in Pennsylvania, as well as in New York, New Jersey, Maryland, Virginia, and the District of Columbia. PES also provides natural gas to retail customers in Ohio, Delaware, and North Carolina where licensing is not required. In the Maryland, District of Columbia, and Virginia jurisdictions, PES provides natural gas to all classes of customers, including residential and small commercial. However in Pennsylvania, our supply operations to date have focused only on commercial and industrial (C&I) customers. PES currently supplies approximately 3.5 million Dekatherms per month to retail customers located in the mid-Atlantic region.

PES has been supplying natural gas to retail customers in Pennsylvania since approximately 1999, and currently supplies gas to both firm and interruptible C&I customers located in the following Pennsylvania LDC service territories:

- Columbia Gas of Pennsylvania
- PPL Gas

- Equitable
- UGI
- Peco Energy
- Dominion Peoples

As a result, PES has experience with supplying natural gas to customers located in six of the seven largest (in terms of residential customers served) LDCs in the Commonwealth.

Q. PLEASE DISCUSS THE FIRST TOPIC IDENTIFIED IN THE COMMISSION'S MAY 28TH ORDER BY PROVIDING YOUR ASSESSMENT OF THE LEVEL OF COMPETITION IN PENNSYLVANIA'S NATURAL GAS SUPPLY SERVICE MARKET.

A. PES' experience has been that prospective C&I customers located in the LDC service territories in which we compete have several options of suppliers. Unfortunately, it is difficult to assess the extent to which competitive suppliers are providing natural gas supply service to customers in Pennsylvania because, with the exception of the residential class, PES is not aware of any up-to-date publicly available information on either the number of customers served or volumes delivered to commercial and industrial (C&I) customers in Pennsylvania by competitive suppliers. This information is vital to determining the extent of competition in Pennsylvania. The availability of this information will also benefit Pennsylvania consumers by lowering the entry costs to competitive suppliers and improving the ability of suppliers to tailor price and service offerings to consumers, thus leading to lower prices.

PES applauds the Commission's initiative to collect historical data from the LDCs on the number of customers and the volumes of natural gas supplied by competitive suppliers in this proceeding through the use of Annex A to the May 28th Order. This information will permit the calculation of the share of each LDC's customer population and total deliveries that are provided on an aggregate basis by all competitive suppliers (sometimes referred to as switching rates).[1] However, PES recommends the Commission modify its directive so that the LDCs are required to provide data separately for individual rate classes of customers, or, at a minimum, aggregations of rate classes. PES makes this recommendation because it anticipates that the customer- and volume-based switching rates are likely to be significantly different between the various rate classes. For example, based of our experience in other energy markets, I would anticipate that switching rates for C&I interruptible customers are higher than for C&I firm customers, and both are likely to be higher than for residential customers. PES reads the description of the information contained in Annex A to not require the separate reporting of information by rate class, or rate class aggregations.

PES submits that at a minimum, the LDCs should be required to provide the information identified in Annex A separately for: 1) residential customers, 2) C&I firm customers - separated by small and large if possible, 3) C&I interruptible customers, and 4) all other rate classes. This information will permit the calculation of switching rates by customer class, which will be helpful in assessing the development of the competitive market for each major customer

[1] PES is not recommending identifying the share held by individual competitive suppliers.

segment.

PES also recommends that the information collected from the LDCs in Annex A be compiled into a report that is posted on the Commission's web site, and that the Commission establish a requirement for the LDCs to report this information to the Commission on a monthly basis. These monthly updates would be the source information for a monthly update of the switching report that would be posted on the Commission's web site. The posting of this information will help foster a competitive market for natural gas supply by providing information on the market potential for sales to retail customers, by class, for each of the Pennsylvania LDCs. Currently, PES is not aware of an up-to-date and accurate public source of this information. As a consequence, should a competitive supplier desire to enter a natural gas market, it must incur significant costs in collecting first hand information on the potential for new sales within an LDC service territory. By reducing these information search costs, the Commission can reduce the cost of market entry for competitive suppliers, which can be anticipated to increase competitive supplier entry, thereby increasing the competitive options available to consumers. This information will also allow competitive supplies to identify areas (both geographically and by customer type) where consumer needs exist, and tailor price and product offerings to meet those needs.

Q. PLEASE DISCUSS RESIDENTIAL CLASS SWITCHING DATA THAT ARE AVAILABLE FOR PENNSYLVANIA.

A. The Pennsylvania Office of Consumer Advocate (OCA) surveys residential natural gas consumers on a monthly basis and prepares a report that is posted on the OCA's web site. The most recent of these reports contains information as of July 1, 2004, and is provided as PES Exhibit (MSK-1). The report shows: 1) the number of residential customers taking gas distribution service within each LDC service territory, 2) the number of residential customers served by competitive suppliers, and 3) the switching rate calculated by dividing the number of customers served by competitive suppliers by the total number of customers. The report shows that only 7.3% of all Pennsylvania residential customers are served by a competitive supplier, and that there is significant variation in the number of customers who have switched by LDC. The table below shows the information in the report for the largest seven LDCs in terms of the number of residential customers.

LDC	Total Residential Customers	Residential Customers Served Competitively	Switch Rate
Philadelphia Gas Works	481,000	0	0.0%
Peco	418,168	1,732	0.4%
Columbia Gas PA	343,706	74,918	21.8%
Dominion Peoples	329,091	86,614	26.3%
UGI Gas	268,391	2,995	1.1%
Equitable Gas	240,660	19,902	8.3%
National Fuel Gas	199,904	0	0.0%
Total	2,280,920	186,161	8.2%

These data show that there is almost no residential sector competitive supply activity in the two largest LDCs. Virtually all of the competitive activity is occurring in three LDCs (Columbia Gas, Dominion Peoples, and Equitable Gas), and overall the switch rate is only 8.2% for the seven largest LDCs.

Q. PLEASE DISCUSS YOUR RECOMMENDATIONS FOR ENCOURAGING INCREASED COMPETITION IN PENNSYLVANIA, WHICH IS THE SEVENTH TOPIC IDENTIFIED IN THE COMMISSION'S MAY 28TH ORDER.

A. My recommendations can be placed into two categories. The first category consists of recommendations that apply to all the LDCs in Pennsylvania. The second category consists of recommendations that apply only to individual LDCs.

I have three recommendations that apply to all LDCs:

1. The Commission should require all LDCs to adopt electronic data interchange for all classes of customers.
2. The Commission should adopt a revenue neutral administrative charge that applies to the gas commodity rate offered by the LDCs.
3. The Commission should identify the most successful competitive market design within the various LDCs and direct all LDCs to implement that design to the maximum extent practicable.

Q. PLEASE DISCUSS WHY THE ADOPTION OF ELECTRONIC DATA INTERCHANGE WILL ENCOURAGE COMPETITION IN PENNSYLVANIA.

A. Currently there is little standardization of the means for exchanging important information concerning customer enrollments, customer drops, and billing information between the LDCs and competitive suppliers. Although electronic data interchange, or EDI, standards have been adopted for the residential customer class for some LDCs, these requirements do not apply to other customer classes. As a result, information concerning customer enrollments and drops are exchanged between the LDCs and competitive suppliers either by telephone, fax, or through email. These means of communication are more cumbersome than EDI, and far more prone to errors than if EDI transactions were used.

For example, if a supplier agrees to begin service for a customer at a specific rate starting in a specific month, and due to a communication error the enrollment is completed a month later than anticipated, the supplier is frequently responsible for ensuring that the customer pays no more than the contracted price for the missed enrollment month. A similar problem occurs if communication errors on a customer drop transaction prevent the customer from either being returned to commodity service from the LDC or switching to another supplier. The current supplier is typically required to serve the customer at the existing contract price, regardless of the cost of supply for this unanticipated month to the supplier. Errors such as these not only reduce customer satisfaction with the restructured gas market, they also can result in financial harm to competitive suppliers.

In addition, billing information for all customer classes other than those for which EDI has been adopted is typically exchanged through the LDC's electronic bulletin board or gas management system. Since these systems are usually tailored specifically for the LDC, there is little standardization on the format of the billing data that is to be downloaded from the site, which prevents competitive suppliers from gaining efficiencies through automation.

The lack of a standardized transaction exchange system reduces customer satisfaction with competition, frequently causes financial harm to competitive suppliers, and results in inefficiencies that keep the administrative cost of serving customers high for both competitive suppliers and LDCs. Adoption of EDI would provide a standard means of exchanging enrollment, drop, and billing information electronically between LDCs and competitive suppliers. In addition, by exchanging information electronically, transaction error rates are likely to be reduced and the data exchange process will become more efficient.

Q. HOW SHOULD AN EDI SYSTEM BE ADOPTED?

A. PES recommends that EDI standards be adopted for all gas customers. However, there should probably be some differences in the customer enrollment and drop EDI rules to reflect the differences in these customers. For example, many interruptible customers are billed on a calendar month basis and they arrange for their gas supply on a month-by-month basis, frequently choosing the source of their supply during the last week of the month prior to the coming calendar month. Firm customers on the other hand are more frequently billed on a billing cycle basis, and they less typically arrange for supply on a month-by-month basis. Where EDI systems have been implemented previously in Pennsylvania and elsewhere, there typically is a required minimum number of days that an enrollment be submitted prior to the enrollment becoming effective. To ensure that interruptible customers can switch to a new supplier by the first day of each new month, this lead time for enrollments should be much shorter than for firm customers.

Q. PLEASE DISCUSS WHY AN ADMINISTRATIVE CHARGE SHOULD BE ADOPTED BY THE GAS LDCs.

A. Competitive suppliers of natural gas must compete for customers not only with other competitive suppliers, but also with the gas LDCs. Unfortunately, the commodity prices offered by gas LDCs do not always reflect all the costs of providing commodity service to customers, and as a result, an economic inefficiency is created that biases customer choice away from competitive suppliers toward the LDCs.

Q. PLEASE DESCRIBE THE TYPES OF COSTS THAT COMPETITIVE SUPPLIERS MUST INCUR TO SERVE CUSTOMERS THAT MAY NOT BE REFLECTED IN THE COMMODITY PRICES CHARGED BY LDCs.

A. To obtain customers to serve, a competitive supplier typically must incur costs to convince potential customers to select it as the customer's supplier. This can be accomplished in a variety of ways, including the use of advertising, direct customer contact, or solicitations using telephone, door-to-door, or direct mail methods. The costs incurred to obtain customers to serve are referred to as customer acquisition costs. Once customers are obtained, the supplier must obtain a sufficient quantity of natural gas commodity to meet the expected usage of the customers, and arrange for the delivery of that commodity using transportation methods that meet the requirements of the LDC to which the commodity is delivered. The supplier may also be required to obtain storage and peaking capacity resources to ensure that the customer does not experience any interruptions in service during severe weather. The costs associated with these functions include both the commodity and capacity costs (including transportation, storage, and peaking costs), as well as the personnel and information system infrastructure costs associated with identifying the correct amount of commodity and capacity resources to purchase, and to track the supplier's supply position relative to its obligations to customers. In addition to these costs, the supplier incurs a variety of operational and administrative costs that are directly related to providing service to customers, which include costs associated with:

- Providing a call center and representatives who can assist customers when required;
- Processing customer enrollments and customer drops with the LDC;
- Billing costs;
- Bad debt;
- Contract management – which consists of processes to ensure that renewal notices are sent on a timely basis, and contract terms are fulfilled;
- Regulatory compliance requirements and filings; and
- Applicable taxes and assessments.

Several of these cost categories consist not only of personnel costs but also of information and business system infrastructure costs.

Finally, a competitive supplier must earn a margin on its sales to cover other business expenses not described above and to earn a profit to remain in business. To continue to attract customers and to retain the customers that are acquired, the supplier must ensure that when all of the components of its price are added together, including the margin, the resulting commodity price is less than the commodity price offered by the LDC. If all of the components of a supplier's price exceeds the price offered by the LDC, the supplier will find itself "out of the market," meaning that its offerings are generally not competitive with the prices offered by the LDC.

As a consequence, it is vitally important for the LDC's commodity price to include all of the appropriate components. If the LDC's commodity service price is set too low, by excluding certain cost components that ought to be included or placing these costs in the distribution charge rather than the commodity charge, for example, competitive suppliers can find it difficult, if not impossible, to compete against the LDC, and the competitive market will wither.

Q. PLEASE DESCRIBE CONCEPTUALLY HOW AN ADMINISTRATIVE CHARGE SHOULD BE DETERMINED.

A. To ensure a level playing field between the LDC's commodity price and offerings from competitive suppliers, all of the incremental costs for an LDC that are associated with providing commodity service, over and above the cost of providing distribution service, should be included in an administrative charge that will become a component of the LDC's commodity rate. Among the largest of these costs are:

- Personnel and infrastructure costs associated with purchasing gas and capacity resources;
- Advertising or customer education expenses associated with commodity

service;

- Incremental call center representatives and infrastructure associated with providing customer service to LDC commodity customers;
- Incremental billing costs;
- Incremental bad debt and collections expenses;
- Incremental regulatory costs associated with commodity service; and
- Applicable taxes and assessments associated with commodity service.

Q. HOW SHOULD THESE COSTS BE INCORPORATED INTO AN ADMINISTRATIVE CHARGE?

A. To the extent that these costs are not currently reflected in the LDC's commodity price, but instead are reflected in distribution rates, a method is required to remove them from distribution rates and reflect them in an administrative charge that would be included in the LDC's commodity rate. This process should be undertaken on a revenue neutral basis, so that the LDC continues to have the opportunity to recover the same amount of costs, except the costs would be recovered through the LDC's commodity rate instead of through distribution rates. If the costs associated with these functions have been tracked historically by the LDC through a direct assignment process, the costs can be removed from distribution rates and incorporated into the administrative charge. However, if these costs have not been directly assigned, an allocation of costs using allocators that are reasonable and consistent with the LDC's cost allocation methods is the next best solution. However, the LDC should be directed to begin to track these costs so that they can be directly assigned in the future. The overall impact would be to reduce distribution rates and increase the administrative charge component of the LDC commodity rate.

Q. ARE THERE OTHER COSTS THAT SHOULD BE INCORPORATED INTO THE ADMINISTRATIVE CHARGE?

A. Yes. Although competitive suppliers are required to incur customer acquisition costs to obtain customers, the LDC is not required to incur these costs in light of its obligation as the provider of last resort. To ensure a level playing field between the competitive price offerings and the commodity price the LDC charges, an amount associated with customer acquisition should be included in the administrative charge.

In addition, the LDC should be permitted to earn a reasonable return on each Dth sold to reflect the service the LDC is providing and the risks it is incurring for which it should be compensated. I understand that currently many, if not all, LDCs in Pennsylvania earn a return on the investment they have made in gas in storage. This return should be counted toward the total return the LDC should receive, however, since the gas in storage comprises less than 100% of the total volumes of gas delivered by and LDC, an additional return is probably also required. Failure to incorporate a reasonable return on every Dth sold in the administrative charge will cause the LDC's commodity price to be too low (and not reflective of the cost of service), resulting in a bias against competitive supply options.

Q. HOW DOES PES PROPOSE THAT THE ADMINISTRATIVE CHARGE BE IMPLEMENTED?

A. The Commission should identify the incremental costs currently incorporated into distribution rates that are associated with providing commodity service and incorporate these into an administrative charge that would become a component of the LDC's commodity charge. In addition, the Commission should determine an additional amount of cost to cover customer acquisition costs and a return that should also be incorporated into the administrative charge. On a periodic basis, the amount by which collections from this administrative charge exceeds actual costs, should be credited to the distribution rates paid by customers taking commodity service from the LDC.

Q. HAVE ADMINISTRATIVE CHARGES SIMILAR TO YOUR PROPOSAL BEEN ADOPTED ELSEWHERE?

A. Yes. The Maryland Public Service Commission has adopted a settlement agreement in Case No. 8908 that establishes an administrative charge similar to the one I have proposed for the provision of standard offer electricity service by the electric distribution companies. Similarly, the District of Columbia Public Service Commission has also adopted an administrative charge similar to the one proposed for the provision of standard offer electricity service by the electric distribution company (Potomac Electric Power Company). In addition, the Maryland Public Service Commission has recently docketed a proceeding (Case No. 8991) to investigate the establishment of an administrative charge for Washington Gas Light Company, an LDC providing gas distribution service in Maryland.

Q. PLEASE DISCUSS YOUR THIRD STATE-WIDE RECOMMENDATION THAT

THE COMMISSION ADOPT A MORE STANDARDIZED MARKET DESIGN FOR THE PENNSYLVANIA LDCs.

A. As I have previously discussed, there is wide variation in competitive activity among the seven largest LDCs in Pennsylvania. Currently each of the LDCs has somewhat different market rules and protocols that apply specifically to the operations within each LDC's service territory. Based on the specific market rule changes that I will discuss in the next section of my testimony, it is clear that at least some of the variation in competitive activity within the LDCs is related to the market rules that the LDCs have adopted. As a consequence, the Commission should review the market rules and protocols of each of the LDCs based on their competitive experience to date to identify a design that is most conducive to the development of a competitive market. Once this design is established, the other LDCs should be directed to adopt this design to the maximum extent practicable.

Q. WHY WOULD THE IMPLEMENTATION OF A MORE STANDARDIZED MARKET DESIGN BE BENEFICIAL?

A. The existence of different market rules and protocols makes it more difficult for competitive suppliers to cost effectively develop standardized business systems that are required to operate in the various LDCs in Pennsylvania. More standardization in market design would permit competitive suppliers to develop systems that apply to multiple LDCs, as opposed to tailoring individual systems to handle the peculiarities of the market design of each LDC. This increased standardization can be expected to improve the efficiency of the operations of competitive suppliers and make it easier for competitive suppliers to more actively participate in multiple LDCs. The improvement in efficiency would help lower costs to consumers, and the increase in the number of active competitive suppliers would mean that consumers would benefit from increased competitive options. Adoption of this recommendation, along with the implementation of EDI and of an administrative charge for LDC commodity prices would further the development of the competitive market in Pennsylvania.

Q. PLEASE DISCUSS YOUR RECOMMENDATIONS FOR CHANGES IN THE MARKET RULES AND PROTOCOLS FOR INDIVIDUAL LDCs.

A. In addition to the statewide recommendations discussed previously, I am recommending a change to the current processes used by three LDCs with respect to providing competitive suppliers with information on the usage for their customers. This recommendation will help suppliers better match deliveries with usage, and thereby reduce the risk of imbalance penalties from these two LDCs, which can be expected to further encourage competition in these jurisdictions.

All of the gas LDCs which PES is familiar have rules regarding the matching of deliveries to the usage, including rules that specify cash outs or penalties when imbalances between deliveries and usage become too large. For all of but three of these LDCs, PES receives estimates of the usage of its served customers fairly quickly after the completion of each gas day. This information permits PES to ensure that its deliveries remain within LDC specified tolerances of usage.

However, for Dominion Peoples, no daily estimates of customer usage are provided at any time during a delivery month. Instead, competitive suppliers are provided with the daily usage for their customers only after the completion of a delivery month. In addition, for Columbia Gas of Pennsylvania and UGI, estimates of daily usage are provided for a few customers that have the required tele-metering equipment, which provides these LDCs with the capability to remotely read the meter each day. Unfortunately, not all customers have metering equipment with this capability. For customers without the tele-metering equipment, neither Columbia Gas of Pennsylvania nor UGI provide suppliers with any estimates of the usage of its customers during the delivery month.

The impact of this lack of usage data is that competitive suppliers face a far greater financial risk associated with matching deliveries to usage. The financial risk could take the form of penalties when deliveries are significantly less than usage, or unfavorable cash outs when deliveries are significantly more than usage. Competitive suppliers who decide to continue to serve customers in these territories must ultimately pass the costs associated with this increased risk on to customers in the form of higher prices. Other suppliers may choose to avoid the risk by exiting or not entering these markets.

To further encourage the development of competition in these jurisdictions, the Commission should direct Dominion Peoples, Columbia Gas of Pennsylvania, and UGI to develop processes for providing suppliers with estimates of the usage of customers served on a daily basis as soon after the completion of each gas day as practicable. Failure to address this information deficiency will cause consumers to pay higher prices than necessary and reduce their competitive choices.

Q. PLEASE DISCUSS YOUR RECOMMENDED CHANGE TO THE CUSTOMER ENROLLMENT AND DROP PROCESS FOR DOMINION PEOPLES.

A. Currently, competitive suppliers are required to communicate their customer enrollments and drops to Dominion Peoples using a personal computer based template that is non-user friendly. Suppliers are required to type account numbers and other information into the template and then send it, via email, to Dominion Peoples. PES has found it to be quite easy to make mistakes with this template, and in addition, Dominion Peoples fails to provide suppliers with timely notice of successful and unsuccessful customer enrollments and drops. Notification is frequently provided after there is no opportunity for resubmitting an enrollment or drop transaction for the appropriate month. As I have previously discussed, failed customer enrollments and drops reduce customer satisfaction with gas competition and expose competitive to financial harm caused by mismatches between obligations to serve and hedged supply.

The adoption of EDI for customer enrollments and drops will solve this particular problem. However, PES realizes that the implementation of EDI for gas will not occur overnight. In the interim, therefore, PES requests that the Commission direct Dominion Peoples to improve its method for communicating customer enrollments and drops and develop a process that provides suppliers with notification on a timely basis.

Q. DOES THIS COMPLETE YOUR TESTIMONY?

A. Yes.

Statement of Occupational and Educational
History and Qualifications

Mark S. Kumm

Mark S. Kumm is the President, Asset Management Group, for Pepco Energy Services, which is a full service energy services company providing electricity, natural gas, energy efficiency services, electric equipment testing and maintenance, and building operations and maintenance services. His responsibilities include commodity sales to large commercial and industrial customers, wholesale procurement, and the development and implementation of new commodity-related products and services for the large commercial and industrial customer segment.

Prior to joining Pepco Energy Services in mid-1999, Dr. Kumm worked for then parent company of Pepco Energy Services, Potomac Electric Power Company (Pepco). He began his career at Pepco in 1984, holding a number of analytical and managerial positions, including Manager of the Market Planning and Policy Group. His responsibilities included managing and performing monitoring and verification studies of conservation and load management programs, marginal and avoided cost studies, market and load research, evaluation and planning for DSM programs, and the development and marketing of products and services delivered by the utility.

Dr. Kumm has delivered testimony before the Public Service Commissions of Maryland and the District of Columbia. In Maryland Case No. 8920, Phase II, he testified on the impact on competition of mandatory capacity assignment, and in Case No. 8981 he testified on the consequences of imposing secondary capacity restrictions on deliveries to the WGL city gates. In the District of Columbia Case Nos. 834, Phase II; 917, Phase II; and 939, he testified on the calculation of marginal and avoided costs, the cost effectiveness of demand side management resources, and impact evaluations of demand side resources.

Dr. Kumm is trained as an economist, holding a Bachelor's degree in Economics from the University of Missouri and a Ph.D. degree in Economics from Duke University.

Mark S. Kumm
Direct Exhibit
Pennsylvania P.U.C. – August 2004

INTRODUCED AS:
Exhibit PES____(MSK-1)

PA Gas Switching Statistics as of 07/01/04			
Company	**Total Residential Customers**	**Residential Customers Served by Alternative Suppliers**	**Percent of Residential Customers Served by Alternative Suppliers**
Columbia Gas	343,706	74,918	21.8
Dominion Peoples	329,091	86,614	26.3
Equitable Gas	240,660	19,902	8.3
National Fuel Gas	199,904	0	0
PECO Gas	418,168	1,732	.4
PG Energy	140,530	0	0
PGW*	481,000	0	0
PPL Gas	65,796	0	0
TW Phillips	55,437	0	0
UGI Gas	268,391	2,995	1.1
Valley Cities, NUI	4,655	0	0
Totals	**2,547,338**	**186,161**	**7.3**

Pennsylvania Office of Consumer Advocate
07-06-04
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*PGW opened to natural gas choice on September 1, 2003.

National Fuel Resources, Inc.

A National Fuel Gas System Company

ORIGINAL

August 26, 2004
Via Overnight Mail

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AUG 26 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Pennsylvania Public Utility Commision
400 North Street
Harrisburg, PA 17120

DOCUMENT FOLDER

Attn: James J. McNulty
Secretary

Re: Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

To the Commission:

Enclosed pursuant to the Order adopted by the Pennsylvania Public Utility Commission ("Commission") on May 27, 2004, are an original and three copies of National Fuel Resources, Inc.'s response to the Commission's questions of natural gas suppliers in Pennsylvania.

Sincerely,

Alice A. Curtiss
Assistant General Counsel

Enclosure

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural Gas Supply Market	))	**Docket No. I-00040103**

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SECRETARY'S BUREAU

Response of National Fuel Resources, Inc. to

Annex A Questions Directed to Natural Gas Suppliers :

The Pennsylvania Public Utility Commission ("PAPUC" or "Commission"), by its order entered May 28, 2004 seeks responses from Natural Gas Suppliers to questions identified in the Annex A attached to such Order. National Fuel Resources, Inc. ("NFR") is a natural gas supplier serving commercial, industrial and smaller volume customers in Pennsylvania and therefore provides the following responses to Annex A.

Question 1 : Provide the number of customers (by class) for each distribution system on which the supplier operates.

Response: NFR provides the enclosed Exhibit 1 which, based on the information in NFR's possession, describes the number of customers, by class, on National Fuel Gas Distribution Corporation's Pennsylvania, the only system in Pennsylvania where is operates.

Question 2 : Provide the volume of natural gas delivered to customers (by class) o each system on which the supplier operates.

Response: NFR provides the enclosed Exhibit 1 which, based on the information in NFR's possession, describes the volume of gas delivered to customers, by class, on National Fuel Gas Distribution Corporation's Pennsylvania, the only system in Pennsylvania where is operates.

Question 3: Provide the number of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue, competition-related issue.

Response: Regarding: slamming, unauthorized change of supplier, changing a supplier, selecting a supplier; NFR has not had any complaints or disputes regarding these during the appropriate time period because during this time period, NFR has not offered any new service to new customers.

Regarding confusion on bills or errors in billing, NFR similarly has had no notice of any complaint or issues, as National Fuel Gas Distribution Corporation is responsible for billing for NFR's small volume customers.

Respectfully submitted, this 26th day of August 2004,

Alice A. Curtiss
Assistant General Counsel
National Fuel Resources, Inc.
Suite 120
165 Lawrence Bell Drive
Williamsville, NY 14221
(716) 630-6796
acurtiss@nfrinc.com

Exhibit 1
NFR Response to Annex A
August 26, 2004

NATIONAL FUEL RESOURCES, INC

PA Quarterly Customer Count

	Large Commercial, Industrial		Small Commercial, Residential		
	Customer Count	Burner Tip Volume	Customer Count	Burner Tip Volume	
1999 March	155	131,071.4	4395		
1999 June	174	42,770.1	4306		
1999 Sept	186	54,359.0	3101		exited out of the pta program
1999 Dec	232	166,173.4	126		
2000 March	239	160,837.5			
2000 June	243	61,594.0			
2000 Sept	255	79,387.3	86	4657.8	
2000 Dec	270	263,801.4	86	10868.6	
2001 March	290	61,857.3	86	15730	
2001 June	283	113,623.0	83	3092.5	
2001 Sept	285	93,327.0	83	4081.1	
2001 Dec	288	293,039.0	83	12460.2	
2002 March	295	327,694.7	82	12756.1	
2002 June	294	154,542.4	82	2799.3	
2002 Sept	288	162,872.9	81	3540.6	
2002 Dec	302	343,157.3	81	11659.7	
2003 March	316	327,652.6	78	11148.6	
2003 June	306	167,448.3	77	2686.8	
2003 Sept	295	185,287.2	76	3521.8	
2003 Dec	317	343,287.7	76	1350.4	
2004 March	317	342,266.6	76	11185.7	
2004 June	333	199,834.8	76	3563.5	

* Please note - the above volumes and customer counts are estimated, and based upon information currently available.

national Fuel

ORIGINAL

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DOCUMENT FOLDER

Carl M. Carlotti
Vice President

August 26, 2004

James J. McNulty, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

In compliance with the Commission's Order entered on May 28, 2004, in the above-referenced case, National Fuel submits for filing its answers to the questions set forth in Annex A of the Order. As required, an original and 10 copies of our answers are enclosed herewith, as well as an electronic version in PDF format.

Please be advised that National Fuel is not filing written testimony to address the issues presented in the Order. Although National Fuel is not filing written testimony at this time, we respectfully request that the Commission allow us to submit rebuttal testimony, if necessary, to respond to allegations set forth in the initial written testimony of the other parties to this proceeding.

Very truly yours,

Carl M. Carlotti

Carl M. Carlotti

CMC/cjc

cc: Office of Consumer Advocate
Office of Small Business Advocate
Energy Association of Pennsylvania

2

NATIONAL FUEL GAS DISTRIBUTION CORPORATION
PENNSYLVANIA DIVISION

(1) For each quarter of the years 1999 to 2004, provide the following:

(a) Number of natural gas suppliers operating on its distribution system;
(b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers;
(c) Volume of natural gas transported on its distribution system;
(d) Volume of natural gas transported for suppliers on its distribution system;
(e) Number of customers complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regardign a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue competition-related issue.

(2) Provide the following information about security requirements that natural gas suppliers are required to maintain for licensure (66 Pa. C.S. § 2208 (c)(1)(i));

(a) Security requirement as posted in the distribution company's intial supplier tariff.
(b) Each change that was made to this security requirment to date.

Response:

(1a) Number of natural gas suppliers operating on its distribution system

Quarter Ending	Number
March 1999	34
June 1999	34
September 1999	33
December 1999	33
March 2000	29
June 2000	29
September 2000	24
December 2000	20
March 2001	19
June 2001	17
September 2001	16
December 2001	14
March 2002	14
June 2002	14
September 2002	14
December 2002	14
March 2003	13
June 2003	13
September 2003	14
December 2003	13
March 2004	13

(1b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers

YEAR	QUARTER	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	PUBLIC AUTH.
1999	First	16,853	1,654	346	279
1999	Second	13,889	1,421	352	278
1999	Third	11,962	1,256	349	263
1999	Fourth	11,653	1,247	359	269
2000	First	11,600	1,286	362	276
2000	Second	11,196	1,271	361	276
2000	Third	3,937	804	342	244
2000	Fourth	63	538	347	251
2001	First	59	534	350	256
2001	Second	63	540	348	256
2001	Third	64	521	338	247
2001	Fourth	66	547	352	267
2002	First	67	561	349	269
2002	Second	67	563	350	274
2002	Third	63	525	329	264
2002	Fourth	66	536	345	279
2003	First	67	547	345	288
2003	Second	67	541	342	287
2003	Third	66	520	328	272
2003	Fourth	66	535	337	282
2004	First	67	546	339	282
2004	April & May	67	545	339	281

(1c) Volume of natural gas transported on its distribution system

YEAR	QUARTER	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	PUBLIC AUTH.
1999	First	11,294,890	3,239,880	4,943,900	1,244,154
1999	Second	4,293,951	1,457,013	3,872,375	610,753
1999	Third	1,303,996	571,571	3,537,403	150,205
1999	Fourth	5,111,222	1,441,193	4,181,010	518,474
2000	First	10,789,254	3,232,910	5,608,550	1,240,211
2000	Second	4,516,223	1,495,993	4,627,178	582,793
2000	Third	1,410,584	595,646	3,801,549	185,995
2000	Fourth	6,009,136	1,699,678	4,548,912	603,064
2001	First	11,579,699	3,534,521	5,531,772	1,298,995
2001	Second	4,568,974	1,561,395	4,106,352	606,880
2001	Third	1,294,560	570,646	3,037,799	186,398
2001	Fourth	4,433,111	1,306,980	3,541,081	508,544
2002	First	9,717,190	2,881,174	4,323,040	1,104,013
2002	Second	4,853,719	1,626,454	4,112,583	677,426
2002	Third	1,201,970	542,381	3,332,096	156,124
2002	Fourth	5,867,250	1,652,798	4,225,274	580,208
2003	First	12,143,675	3,749,760	4,745,965	1,442,488
2003	Second	4,477,804	1,535,357	3,282,543	664,441
2003	Third	1,244,424	560,601	2,598,777	186,865
2003	Fourth	5,267,571	1,524,047	3,264,328	557,623
2004	First	11,096,479	3,466,053	4,369,274	1,390,932
2004	April & May	3,627,478	1,238,335	2,584,438	560,242

(1d) Volume of natural gas transported for suppliers on its distribution system

YEAR	QUARTER	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	PUBLIC AUTH.
1999	First	949,770	1,064,747	4,723,509	802,964
1999	Second	232,701	661,187	3,780,844	471,548
1999	Third	72,393	324,257	3,345,874	107,332
1999	Fourth	300,639	542,411	3,973,350	324,447
2000	First	690,743	1,146,089	5,365,901	873,782
2000	Second	277,943	666,525	4,469,287	429,632
2000	Third	21,980	319,836	3,469,286	126,398
2000	Fourth	16,158	514,746	3,864,937	359,686
2001	First	39,735	963,490	5,166,431	852,184
2001	Second	16,302	643,990	4,012,377	453,552
2001	Third	1,531	312,833	2,951,549	126,460
2001	Fourth	13,400	482,729	3,454,616	359,644
2002	First	37,115	931,123	4,165,663	815,427
2002	Second	21,061	686,358	3,989,308	538,646
2002	Third	1,199	295,560	3,050,639	124,674
2002	Fourth	17,974	536,593	3,605,656	426,055
2003	First	50,115	1,181,103	4,463,649	1,114,917
2003	Second	17,956	665,315	3,277,708	567,391
2003	Third	1,774	305,066	2,542,544	155,953
2003	Fourth	15,901	508,254	3,196,367	418,189
2004	First	46,637	1,113,994	4,209,871	1,089,442
2004	April & May	16,140	503,962	2,537,046	467,826

(1e) None

(2a) National Fuel's supplier tariff Supplement No. 123 to Gas – Pa. P.U.C. No. 8 was filed in compliance with the R-994785 Order entered June 29, 2000. The security requirements in effect at the time of the compliance filing can be found on the following:

Supplement No. 103 to Gas – Pa. P.U.C. No. 8 Fourth Revised Page No. 30
Supplement No. 81 to Gas – Pa. P.U.C. No. 8 First Revised Page No. 30A
Supplement No. 103 to Gas – Pa. P.U.C. No. 8 Second Revised Page No. 30B
Supplement No. 81 to Gas – Pa. P.U.C. No. 8 First Revised Page No. 30C

See Pages 6 through 9.

(2b) National Fuel has had the following changes to security requirements since the R-994785 compliance:

Effective October 30, 2001

Pa. P.U.C. No. 9 Original Page No. 32
Pa. P.U.C. No. 9 Original Page No. 33
Pa. P.U.C. No. 9 Original Page No. 34
Pa. P.U.C. No. 9 Original Page No. 35

See Pages 10 through 13.

Effective April 12, 2002

Supplement No. 6 to Pa. P.U.C. No. 9 First Revised No. 32
Supplement No. 6 to Pa. P.U.C. No. 9 First Revised No. 34
Supplement No. 6 to Pa. P.U.C. No. 9 First Revised No. 35

See Pages 14 through 16.

Effective August 1, 2003

Supplement No. 19 to Pa. P.U.C. No. 9 Second Revised No. 34
Supplement No. 19 to Pa. P.U.C. No. 9 Second Revised No. 35

See Pages 17 through 18.

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

If the unit of refund is not equal to at least one-hundredth cent per 1,000 cubic feet, the total amount of forfeiture charges shall be retained and combined with forfeiture charges through the allocation period ending prior to the beginning of the next ensuing period described above.

In determining the unit refund per 1,000 cubic feet, the Company shall use as the denominator the projected allocated volumes for twelve months. The refund shall be made on the basis of the customer's projected allocated volumes during the twelve months of the refund period.

In the event there is no curtailment projected for the succeeding twelve months at the time of determining the refund, the Company has the option of allocating the refund to each curtailed customer on the basis of the curtailed customer's total usage during the previous twelve months. The forfeiture charges in this section are in addition to all charges under the rate which the customer receives service. (C)

27. Financial Fitness Requirements for PTA and SATS Suppliers

Dun & Bradstreet reports will be utilized as the primary source of credit information to determine the creditworthiness of Supplier applicants for service under Rate Schedules PTA and SATS. The following Dun & Bradstreet standards will be used: a credit risk rating of A, B, C and unrated or "blank", noted on the report (the continuum range is A to unrated). The values for these rating are: (C)

"A" assets, liabilities and payment history indicate little or no risk to creditors.

"B" assets, liabilities and payment history indicate a moderate risk to creditors.

"C" assets, liabilities and payment history indicate a risk to creditors.

"Unrated" indicates that there is insufficient historical credit data available to make a reliable credit assessment of the applicant (such as the applicant being in business less than 14 months, change of ownership, etc.).

Upon receipt of the properly completed Credit Application, the Company will obtain various Dun & Bradstreet reports for initial review and assessment. The reports will include, but not be limited to: Payment Analysis Report, Business Information Report, Credit Analysis Report and Risk Analysis

(C) Indicates Change

(C)

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

Report; financial ratings will also be included in the analysis. In addition, other criteria will be taken into consideration in assessing the Company's potential risk exposure, such as: (1) established payment history of the applicant with the Company and (2) the ratio of anticipated projected enduser volumes to the Supplier's unencumbered assets available for payment.

"A" Rating:

In general, if the reports indicate an overall rating of "A" no security deposit will be required at the time of application, subject to changes listed below. However, if anticipated projected enduser volumes indicate a substantial risk exposure over and above indicated current assets available for payment, a security deposit may be required.

"B" Rating:

If the reports indicate an overall rating of "B" additional background investigations will be completed. These investigations will include but not be limited to: (1) an assessment of the applicant's payment history with the Company, (2) compilation of other creditors and trade creditor's reports, (3) request for financial statements, if necessary. Upon completion of a review of the additional information a determination will be made regarding the Company's risk exposure and a recommendation made to waive or request a security deposit.

"C" Rating:

If the reports indicate an overall rating of "C" a security deposit will be required. No further investigations will be made unless extenuating circumstances exist and the applicant brings those situations to the attention of the reviewer.

"Unrated" or "Blank":

Any applicant with a rating of "uncoded" will automatically be designated as having a rating of "C".

Changes affecting credit risk ratings:

All approved Suppliers will be periodically reviewed to determine if: (1) there is a change in their credit risk rating; (2) security needs to be required on a previously unsecured account; (3) the amount of security being held should be increased or decreased to meet projected future usage,

(C) Indicates Change

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

based upon historical usage data. Changes indicating that a credit review may be necessary include, but are not limited to: (1) significant changes in Dun & Bradstreet credit reports; (2) credit related information obtained from reliable sources; (3) a change in the number of end-users; (4) a change from the established payment history; as well as any other information received regarding the financial standing of the Supplier. Security deposits will be refunded to the Supplier when it is determined that the Supplier meets the level of creditworthiness criteria that no longer requires a security deposit.

Determination of Security Deposits:

The amount of a security deposit will be determined under the following formula:

a. Using historical data, three months maximum consumption for each customer anticipated to be served by the applicant PTA or SATS Supplier will be identified and multiplied by (1) the applicable transportation rate; and (2) the corresponding cost of gas. (C)

b. The "corresponding cost of gas" shall be the higher of $10.00 per Dth or 110% of the average of the highest market price of gas for each month during the last Winter Period (November through March) as determined by references in The Gas Daily Index, "Daily Price Survey" for "Appalachia," "CNG North Point."

c. The product of the calculation at a. above shall be multiplied by .10 (10%).

Monthly reviews will be provided, based upon any changes which may affect the Company's risk exposure.

Payment of Security:

Payment of security deposits can be made by cash or acceptable form of security such as Letter of Credit or Surety Bond. Interest will be paid on cash security deposits at the same rate paid on deposits for service to non-residential customers. Responsibility for and expenses incurred in the procurement of a Letter of Credit are subject to requirements and/or negotiations with the Applicant's individual bank. Expenses associated with the procurement of a Surety Bond are subject to the requirements of the

(C) Indicates Change

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

individual insurance company. In addition, the Company may in its sole discretion accept an agreement setting special operating standards ("Operational Default Agreement") and/or an Escrow Account Agreement in exchange for reducing the level of security otherwise required.

28. CHANGES OF RULES AND REGULATIONS

The Company reserves the right to modify, alter or amend the foregoing Rules and Regulations and to make such further and other rules and regulations as experience may suggest or the Company may deem necessary or convenient in the conduct of its business provided, however, that such modifications, alterations, or amendments shall not become effective unless and until included in this tariff.

(C) Indicates Change

If the unit of refund is not equal to at least one-hundredth cent per 1,000 cubic feet, the total amount of forfeiture charges shall be retained and combined with forfeiture charges through the allocation period ending prior to the beginning of the next ensuing period described above.

In determining the unit refund per 1,000 cubic feet, the Company shall use as the denominator the projected allocated volumes for twelve months. The refund shall be made on the basis of the customer's projected allocated volumes during the twelve months of the refund period.

In the event there is no curtailment projected for the succeeding twelve months at the time of determining the refund, the Company has the option of allocating the refund to each curtailed customer on the basis of the curtailed customer's total usage during the previous twelve months. The forfeiture charges in this section are in addition to all charges under the rate which the customer receives service.

(C)

27. Financial Fitness Requirements for SATS Suppliers

Dun & Bradstreet reports will be utilized as the primary source of credit information to determine the creditworthiness of Supplier applicants for service under Rate Schedule SATS. The following Dun & Bradstreet standards will be used: a credit risk rating of A, B, C and unrated or "blank", noted on the report (the continuum range is A to unrated). The values for these rating are: (C)

"A" assets, liabilities and payment history indicate little or no risk to creditors.

"B" assets, liabilities and payment history indicate a moderate risk to creditors.

"C" assets, liabilities and payment history indicate a risk to creditors.

"Unrated" indicates that there is insufficient historical credit data available to make a reliable credit assessment of the applicant (such as the applicant being in business less than 14 months, change of ownership, etc.).

Upon receipt of the properly completed Credit Application, the Company will obtain various Dun & Bradstreet reports for initial review and assessment. The reports will include, but not be limited to: Payment Analysis Report, Business Information Report, Credit Analysis Report and Risk Analysis

(C) Indicates Change

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

Report; financial ratings will also be included in the analysis. In addition, other criteria will be taken into consideration in assessing the Company's potential risk exposure, such as: (1) established payment history of the applicant with the Company and (2) the ratio of anticipated projected enduser volumes to the Supplier's unencumbered assets available for payment.

"A" Rating:

In general, if the reports indicate an overall rating of "A" no security deposit will be required at the time of application, subject to changes listed below. However, if anticipated projected enduser volumes indicate a substantial risk exposure over and above indicated current assets available for payment, a security deposit may be required.

"B" Rating:

If the reports indicate an overall rating of "B" additional background investigations will be completed. These investigations will include but not be limited to: (1) an assessment of the applicant's payment history with the Company, (2) compilation of other creditors and trade creditor's reports, (3) request for financial statements, if necessary. Upon completion of a review of the additional information a determination will be made regarding the Company's risk exposure and a recommendation made to waive or request a security deposit.

"C" Rating:

If the reports indicate an overall rating of "C" a security deposit will be required. No further investigations will be made unless extenuating circumstances exist and the applicant brings those situations to the attention of the reviewer.

"Unrated" or "Blank":

Any applicant with a rating of "uncoded" will automatically be designated as having a rating of "C".

Changes affecting credit risk ratings:

All approved Suppliers will be periodically reviewed to determine if: (1) there is a change in their credit risk rating; (2) security needs to be required on a previously unsecured account; (3) the amount of security being held should be increased or decreased to meet projected future usage, based upon historical usage data. Changes indicating that a credit review may be necessary include, but are not limited to: (1) significant changes in Dun & Bradstreet credit reports; (2) credit related information obtained from reliable sources; (3) a change in the number of end-users; (4) a change from the established payment history; as well as any other information received regarding the financial standing of the Supplier. Security deposits will be refunded to the Supplier when it is determined that the Supplier meets the level of creditworthiness criteria that no longer requires a security deposit.

Determination of Security Deposits:

The amount of a security deposit will be determined under the following formula: (C)

a. Using historical data, three months maximum consumption for each customer anticipated to be served by the applicant SATS Supplier will be identified and multiplied by (1) the applicable transportation rate; and (2) the corresponding cost of gas.

b. The "corresponding cost of gas" shall be the higher of $10.00 per Dth or 110% of the average of the highest market price of gas for each month during the last Winter Period (November through March) as determined by references in The Gas Daily Index, "Daily Price Survey" for "Appalachia," "Dominion North Point." (C)

c. The product of the calculation at a. above shall be multiplied by .10 (10%).

Monthly reviews will be provided, based upon any changes which may affect the Company's risk exposure.

Payment of Security:

Payment of security deposits can be made by cash or acceptable form of security such as Letter of Credit or Surety Bond. Interest will be paid on cash security deposits at the same rate paid on deposits for service to non-residential customers. Responsibility for and expenses incurred in the procurement of a Letter of Credit are subject to requirements and/or negotiations with the Applicant's individual bank. Expenses associated with the procurement of a Surety Bond are subject to the requirements of the

(C) Indicates Change

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

individual insurance company. In addition, the Company may in its sole discretion accept an agreement setting special operating standards ("Operational Default Agreement") and/or an Escrow Account Agreement in exchange for reducing the level of security otherwise required.

28. CHANGES OF RULES AND REGULATIONS

The Company reserves the right to modify, alter or amend the foregoing Rules and Regulations and to make such further and other rules and regulations as experience may suggest or the Company may deem necessary or convenient in the conduct of its business provided, however, that such modifications, alterations, or amendments shall not become effective unless and until included in this tariff.

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

If the unit of refund is not equal to at least one-hundredth cent per 1,000 cubic feet, the total amount of forfeiture charges shall be retained and combined with forfeiture charges through the allocation period ending prior to the beginning of the next ensuing period described above.

In determining the unit refund per 1,000 cubic feet, the Company shall use as the denominator the projected allocated volumes for twelve months. The refund shall be made on the basis of the customer's projected allocated volumes during the twelve months of the refund period.

In the event there is no curtailment projected for the succeeding twelve months at the time of determining the refund, the Company has the option of allocating the refund to each curtailed customer on the basis of the curtailed customer's total usage during the previous twelve months. The forfeiture charges in this section are in addition to all charges under the rate which the customer receives service.

27. Financial Fitness Requirements for SATS Suppliers and CBA Aggregators (C)

Dun & Bradstreet reports will be utilized as the primary source of credit information to determine the creditworthiness of Supplier applicants for service under Rate Schedule SATS and the creditworthiness of Aggregators under Rate Schedule Customer Balancing and Aggregation. The following Dun & Bradstreet standards will be used: a credit risk rating of 1 through 5and "uncoded", noted on the report (the continuum range is 1 to uncoded). The values for these rating are:

"1" assets, liabilities and payment history indicate little or no risk to creditors.

"2" assets, liabilities and payment history indicate some risk to creditors.

"3" assets, liabilities and payment history indicate a moderate risk to creditors. (C)

"4" assets, liabilities and payment history indicate a greater than moderate risk to creditors.

"5 assets, liabilities and payment history indicate a severe risk to creditors.

"Uncoded" indicates that there is insufficient historical credit data available to make a reliable credit assessment of the applicant (such as the applicant being in business less than 14 months, change of ownership, etc.).

Upon receipt of the properly completed Credit Application, the Company will obtain various Dun & Bradstreet reports for initial review and assessment. The reports will include, but not be limited to: Payment Analysis Report, Business Information Report, Comprehensive Report and Credit Score

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

Changes indicating that a credit review may be necessary include, but are not limited to: (1) significant changes in Dun & Bradstreet credit reports; (2) credit related information obtained from reliable sources; (3) a change in the number of end-users; (4) a change from the established payment history; as well as any other information received regarding the financial standing of the Supplier or Aggregator. Security deposits will (C)
be refunded to the Supplier or Aggregator when it is determined that the (C)
Supplier or Aggregator meets the level of creditworthiness criteria that no (C)
longer requires a security deposit.

Determination of Security Deposits:

The amount of a security deposit will be determined under the following formula:

(1) For SATS Suppliers (C)

a. Using historical data, three months maximum consumption for each customer anticipated to be served by the applicant SATS Supplier will be identified and multiplied by (1) the applicable transportation rate; and (2) the corresponding cost of gas.

b. The "corresponding cost of gas" shall be the higher of $10.00 per Dth or 110% of the average of the highest market price of gas for each month during the last Winter Period (November through March) as determined by references in The Gas Daily Index, "Daily Price Survey" for "Appalachia," "Dominion North Point."

c. The product of the calculation at a. above shall be multiplied by .10 (10%).

(1) For CBA Suppliers

a. Using historical data, three months maximum consumption for each customer to be served by the applicant CBA Aggregator will be multiplied by the potential CBA cost of gas. The (C)
potential CBA cost of gas shall equal the average cost of gas over the last three years for the months identified as the historical three months of maximum consumption multiplied by the seasonal factor (13% in non-winter months and 18% in winter months).

Monthly reviews will be provided, based upon any changes which may affect the Company's risk exposure.

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont') (C)

Payment of Security:

Payment of security deposits can be made by cash or acceptable form of security such as Letter of Credit. Interest will be paid on cash security deposits at the same rate paid on deposits for service to non-residential customers. Responsibility for and expenses incurred in the procurement of a Letter of Credit are subject to requirements and/or negotiations with the Applicant's individual bank. In addition, the Company may in its sole discretion accept an agreement setting special operating standards ("Operational Default Agreement") and/or an Escrow Account Agreement in exchange for reducing the level of security otherwise required.

28. CHANGES OF RULES AND REGULATIONS

The Company reserves the right to modify, alter or amend the foregoing Rules and Regulations and to make such further and other rules and regulations as experience may suggest or the Company may deem necessary or convenient in the conduct of its business provided, however, that such modifications, alterations, or amendments shall not become effective unless and until included in this tariff.

(C) Indicates Change

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

Changes indicating that a credit review may be necessary include, but are not limited to: (1) significant changes in Dun & Bradstreet credit reports; (2) credit related information obtained from reliable sources; (3) a change in the number of end-users; (4) a change from the established payment history; as well as any other information received regarding the financial standing of the Supplier or Aggregator. Security deposits will be refunded to the Supplier or Aggregator when it is determined that the Supplier or Aggregator meets the level of creditworthiness criteria that no longer requires a security deposit. (C) (C) (C)

Determination of Security Deposits:

The amount of a security deposit will be determined under the following formula: (C)

(1) For SATS Suppliers

a. Using historical data, three months maximum consumption for each customer anticipated to be served by the applicant SATS Supplier will be identified and multiplied by (1) the applicable transportation rate; and (2) the corresponding cost of gas.

b. The "corresponding cost of gas" shall be the higher of $10.00 per Dth or 110% of the average of the highest market price of gas for each month during the last Winter Period (November through March) as determined by references in The Gas Daily Index, "Daily Price Survey" for "Appalachia," "Dominion North Point."

c. The product of the calculation at a. above shall be multiplied by .10 (10%).

(1) For CBA Suppliers

a. Using historical data, three months maximum consumption for each customer to be served by the applicant CBA Aggregator will be multiplied by the potential CBA cost of gas. The potential CBA cost of gas shall equal the average cost of gas over the last three years for the months identified as the historical three months of maximum consumption multiplied by the seasonal factor (13% in non-winter months and 18% in winter months). (C)

Monthly reviews will be provided, based upon any changes which may affect the Company's risk exposure.

RULES AND REGULATIONS APPLYING TO ALL TERRITORIES SERVED (Cont')

Payment of Security:

Payment of security deposits can be made by cash or acceptable form of security such as Letter of Credit. Interest will be paid on cash security deposits at the same rate paid on deposits for service to non-residential customers. Responsibility for and expenses incurred in the procurement of a Letter of Credit are subject to requirements and/or negotiations with the Applicant's individual bank. In addition, the Company may in its sole discretion accept an agreement setting special operating standards ("Operational Default Agreement") and/or an Escrow Account Agreement in exchange for reducing the level of security otherwise required. (C)

(C) Indicates Change

Brian D. Crowe
Director
Rates & Regulatory Affairs

PECO Energy Company
2301 Market Street, S15-2
Philadelphia, PA 19103

Mail To: P.O. Box 8699
Philadelphia, PA 19101-8699

Telephone 215.841.5316
Fax 215.841.6331
www.exeloncorp.com
brian.crowe@peco-energy.com

PECO
An Exelon Company

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AUG 26 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

August 26, 2004

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Second Floor
Harrisburg, PA 17120

Re: Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

Pursuant to the Pennsylvania Public Utility Commission's May 28, 2004 Order initiating an investigation into competition in the natural gas supply market ("Order"), PECO Energy submits the attached responses to the information requested in Annex A to the Order. PECO Energy has elected not to file testimony at this time, but reserves the right to respond to any testimony submitted and to participate in the En Banc hearing scheduled on September 30, 2004.

If you have any questions, please call Amy Hamilton at (215) 841-6783. Thank you.

Very truly yours,

Brian D Crowe /am

cc: Patricia Burkett, Law Bureau
R. Bennett, Bureau of Fixed Utility Services
J. E. Simms, Director, Office of Trial Staff
T. E. Sheets, Director, Bureau of Audits
Office of Consumer Advocate
Office of Small Business Advocate

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ANNEX A

Natural Gas Distribution Companies

Each natural gas distribution company is directed to provide specific information about its system.

(1) For each quarter of the years 1999 to 2004, provide the following:

(a) Number of natural gas suppliers operating on its distribution system;

Please see attached chart for information responsive to questions 1(a) - (d).

(b) Number of residential, industrial and commercial customers purchasing gas from alternative suppliers;

Please see attached chart for information responsive to questions 1(a) - (d).

(c) Volume of natural gas transported on its distribution system;

Please see attached chart for information responsive to questions 1(a) - (d).

(d) Volume of natural gas transported for suppliers on its distribution system.

Please see attached chart for information responsive to questions 1(a) - (d).

(e) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier, error in billing for a supplier; and any other issue competition-related issue.

PECO Energy does not track its electric and gas customer complaints/disputes separately, as recognized by the PUC in its Utility Consumer Activities Report and Evaluation. Accordingly, PECO is unable to provide the requested information.

(2) Provide the following information about security requirements that natural gas suppliers are required to maintain for licensure (66 Pa. C.S. § 2208(c)(1)(i)):

(a) Security requirement as posted in the distribution company's initial supplier tariff.

Below are the relevant provisions of PECO Energy's initial Gas Choice Supplier Tariff relevant to the security requirements set forth in 66 Pa. C.S. § 2208(c)(1)(i):

7.13 Surety Creditworthiness Requirements. The Supplier shall maintain the Surety required by the Company and shall maintain an acceptable credit rating in accordance with the requirements of the Supplier Evaluation Form. The Company reserves the right to conduct financial evaluations during the course of the year when information has been received by the Company that indicates the creditworthiness of the Supplier has deteriorated. The Company will bill the Supplier a ninety two dollar ($92.00) fee for such evaluations. The Company will limit evaluations at Supplier expense to two (2) evaluations in any twelve (12) month period.

9.3 Financial Fitness Evaluation Fee. Suppliers shall pay a fee of ninety-two dollars ($92.00 for each financial fitness evaluation required to maintain creditworthiness as described in Rule 7.13, with such payments to be limited to two (2) in any twelve (12) month period.

11.5 Manner of Payment. The Supplier shall make payments of funds payable to the Company by wire transfer to a bank designated by the Company. The Company may require that a Supplier that is not Creditworthy tender payment by means of a certified, cashier's, teller's, or bank check, or by wire transfer, or other immediately available funds. If disputes arise regarding a Supplier bill, the Supplier must pay the undisputed portion of disputed bills under investigation. There shall be a returned check fee of $50.00 payable by the Supplier for each returned check.

11.9 Guarantee of Payments. Before the Supplier can render service, or continue to render service under this Tariff, the Company shall require any Supplier applying for Coordination Services, or a Supplier currently receiving such services, as applicable, to provide and maintain a cash deposit, letter of credit, performance or surety bond, or other guarantee, (any of these referred to as "Surety") for an amount, and in a form, satisfactory to the Company. The Company will hold any Surety for the Supplier's delivery of gas and for payment of undisputed charges due from a Supplier under this Tariff. In addition, the Company at any time may require a Supplier to post a cash deposit if the Company determines that the Supplier is no longer Creditworthy. In the event the Commission establishes an additional amount to be included in the Surety to cover fines or obligations of a Supplier to its LVT Customers, such amount shall be payable on the same terms as the Surety to the Company; provided, however, that the Company shall not be required to execute on the Surety for any amounts owed by the Supplier to its LVT Customers unless such amounts are not in dispute or the Commission directs the Company to do so in a final order.

11.10 Amount of Surety. The Surety calculation formula is comprised of three components as follows:

a. The Company's exposure for gas "borrowed" by the Supplier, adjusted for a colder than normal winter,
b. Pipeline demand charges in the event of a Supplier default, and
c. The Company's exposure related to honoring the Supplier's contract price within a billing period.

Each of these components are detailed below:

a. "Borrowed" gas component: [(projected volumes for NOV-MAR in most recent 1307(f) filing) x (10% adjustment for a design winter) - (delivered gas per ADCQ for NOV-MAR)] x (most recent Company 1307(f) filing average delivered commodity cost for NOV-MAR).
b. Pipeline capacity demand charges component: [ADCQ x 90 days x (most recent Company 1307(f) filing pipeline demand charges)].
c. Interim billing period component: [JAN's volume x 30 days x 10% assumed difference in Supplier's contract price to the Company's commodity cost)].

11.10.1 Credit Information. In addition to any information otherwise required hereunder, a Supplier shall be required to provide to the Company such credit information as the Company may reasonably request. The Company will report the Supplier's credit history with the Company to a national credit bureau.

14.3 Cure and Default. In the event that either the Company or a NGS materially breaches any of its Coordination Obligations, the other party shall provide the breaching party with notice of the breach. If the breach is not cured or rectified within fifteen (15) days of the receipt of such notice, the breaching party shall be deemed in Default of the Agreement; except that, if a NGS fails to deliver its ADDQ as provided in Rule 14.2 f. above, or a NGS fails to restore its required Surety within three (3) business days, each such failure constitutes a Default and the Company may, without further notice, immediately terminate the Coordination Services Agreement without prejudice to any remedies at law or in equity available to the Company by reason of the Default. Notwithstanding the above, the NGS shall have the right during said fifteen (15) day cure period to obtain an order from the Commission preventing or staying termination.

(b) Each change that was made to this security requirement to date.

The tariff sections identified in response to Question 2(a) have not changed since the issuance of PECO's first Gas Choice Supplier Tariff.

Responses of PECO Energy Company
to Docket No. I-00040103
Annex A, Question No. (1) (a) through (d)

1999				
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
Gas Suppliers	28	28	28	27
HVT Customers				
TS-I Small	77	76	76	84
TS-F-Small	299	315	324	321
TS-I Large	185	185	183	183
TS-F Large	123	123	122	120
Total Number of HVT Customers	684	699	705	708
LVT Customers				
Commercial -Rate GC	0	0	0	0
Residential - Rate GR	0	0	0	0
Total Number Of LVT Customers	0	0	0	0
Total All Transportation customers	684	699	705	708
Total Gas Transported (1000 MCF)	34,986	13,922	11,170	25,733
Gas Transported for Suppliers (1000 MCF)	8,451	6,908	7,578	8,715

Definitions

HVT Customer - High Volume Transportation Customer
LVT Customer - Low Volume Transportation Customer
TS-I Transportation Service Interruptible
TS-F Transportation Service Firm
Small-Less than 18,000 MCF per Year
Large -Over 18,000 MCF per YEAR

Prepared by C. Thillet 26-Aug-04

Shell Trading

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Shell Trading Gas and Power Company
909 Fannin, Ste 700
Houston, TX 77010
713.767.5400

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August 26, 2004

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AUG 2 6 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Mr. James J. McNulty
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

RE: Investigation into Competition in the Natural Gas Supply Market

Dear Mr. McNulty, I-00040103

Enclosed please find Coral Energy Resources, LP's response to the questions provided by the Pennsylvania Public Service Commission's request for information regarding natural gas suppliers.

If there are any questions regarding this response, please contact me at (713) 230-7812.

Very truly yours,

Amy Gold

Amy Gold
Director, Regulatory Affairs
Coral Energy Resources, LP
909 Fannin Street, Plaza Level One
Houston, Texas 77010
713-230-7812
agold@coral-energy.com

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1. Since the fourth quarter of 1999, Coral Energy Resources LP has served **one (1)** customer in the industrial customer class. This customer is located on the PECO citygate gas distribution system.

2. For year **1999:**
Q4: 326,730 Dt

For year **2000:**
Q1: 607,697 Dt Q2: 384,710 Dt Q3: 332,920 Dt Q4: 456,333 Dt

For year **2001:**
Q1: 488,956 Dt Q2: 277,626 Dt Q3: 251,013 Dt Q4: 151,618 Dt

For year **2002:**
Q1: 218,754 Dt Q2: 171,290 Dt Q3: 183,974 Dt Q4: 189,623 Dt

For year **2003:**
Q1: 237,649 Dt Q2: 0 Q3: 0 Q4: 0

For year **2004:**
Q1: 0 Q2: 0 Q3: 0 Q4: 0

3. There have been **no** customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternative supplier; error in billing for a supplier; and any other issue competition-related issue.

FirstEnergy
Solutions

395 Ghent Road
Akron, OH 44333

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AUG 27 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

August 26, 2004

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

Re: Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

Enclosed is an original and ten (10) copies of the Natural Gas Supplier Report for FirstEnergy Solutions Corp. (FES) filed in compliance with the Pennsylvania Public Utility Commission's ("Commission") order of May 27, 2004 issued in the above-captioned proceeding. In addition, I am enclosing an electronic version of the answers on diskette.

Please contact me at (330) 315-6851 or via e-mail at prezelji@fes.com if you have any questions concerning this matter.

Sincerely,

Irene M. Prezelj

Irene M. Prezelj
FirstEnergy Solutions

Enclosures

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FirstEnergy Solutions
PAPUC Natural Gas Complaints
1999-2004

Name	Date	Reason	Resolution
Robert T. Sweeney	2/9/2001	Customer questioned switch to Volunteer (FirstEnergy Solutions) natural gas	Volunteer (FirstEnergy Solutions) dropped account
John Nardontonia	4/5/2001	Customer disputed variable rate for natural gas	Volunteer (FirstEnergy Solutions) provided a copy of letter that was mailed to customer explaining variable rate; dropped account; refunded customer for the difference between the variable rate and CPA's rate
Brad Heird	10/31/2001	Customer called Volunteer (FirstEnergy Solutions) to cancel contract in August 2000, but contract was not cancelled	FirstEnergy Solutions did not bill the customer for the charges, and closed the account
Sol Brothers	8/28/2003	FirstEnergy Solutions mailed a rate increase notice to service address, not the customer's mailing address. Appropriate personnel at Sol Brothers did not receive the rate increase notice and did not cancel contract.	FirstEnergy Solutions dropped customer's account and negotiated an out-of-court settlement.

Pa gas consumption by quarter.xls

		1999	1999	1999	1999	1999	1999	2000	2000	2000	2000	2000	2000	2000	2000
		Q2	Q2	Q3	Q3	Q4	Q4	Q1	Q1	Q2	Q2	Q3	Q3	Q4	Q4
		Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH
COLUMBIA GAS OF PENNSYLVANIA	COMM	2	-25.3	8	119.7	168	31,769.7	201	104,558.5	228	188,820.1	245	95,217.7	288	202,912.7
COLUMBIA GAS OF PENNSYLVANIA	RES														
EQUITABLE GAS COMPANY	COMM					135	25,680.0	137	39,688.0	139	12,359.2	152	7,138.4	206	76,739.0
GREAT LAKES	COMM					20	270,899.2	30	409,478.6	30	392,304.3	33	391,467.4	41	429,492.2
NATIONAL FUEL GAS COMPANY - PA	COMM					59	209,141.3	192	578,720.7	172	401,085.4	208	333,204.6	253	588,509.4
NATIONAL FUEL GAS SUPPLY	COMM											4	339,726.0	11	1,106,477.0
PEOPLES NATURAL GAS	COMM			1	-13.4	192	243,031.9	250	355,885.6	229	283,581.2	305	275,116.4	334	407,834.7
Count	Count	2	-25.3	9	106.3	574	780,522.1	810	1,488,331.4	798	1,278,150.2	947	1,441,870.5	1133	2,811,964.9

		2001	2001	2001	2001	2001	2001	2001	2001	2002	2002	2002	2002	2002	2002	2002	2002
		Q1	Q1	Q2	Q2	Q3	Q3	Q4	Q4	Q1	Q1	Q2	Q2	Q3	Q3	Q4	Q4
		Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH
COLUMBIA GAS OF PENNSYLVANIA	COMM	406	439,423.5	482	262,458.6	504	202,269.9	563	392,953.3	609	543,643.5	569	339,353.3	499	182,754.3	298	215,815.5
COLUMBIA GAS OF PENNSYLVANIA	RES	295	4,205.1	341	1,814.9	254	444.4	213	1,349.4	184	2,106.2	177	862.4	169	254.7	132	1,004.5
EQUITABLE GAS COMPANY	COMM	344	180,769.0	338	118,237.0	203	94,321.0	210	149,891.0	240	160,085.0	199	84,956.0	157	63,281.0	29	35,797.0
GREAT LAKES	COMM	33	403,252.4	37	383,257.7	33	391,679.7	33	392,639.6	33	395,102.5	33	350,055.6	32	253,693.7	32	357,581.4
NATIONAL FUEL GAS COMPANY - PA	COMM	383	822,818.5	300	337,328.7	310	278,224.7	416	740,072.6	410	970,001.4	392	634,440.2	325	483,269.9	328	542,389.0
NATIONAL FUEL GAS SUPPLY	COMM	15	1,282,868.0	10	1,033,986.0	12	948,942.0	3	750,000.0	10	640,000.0	5	850,000.0	10	1,200,000.0	7	600,000.0
PEOPLES NATURAL GAS	COMM	718	569,879.5	1230	486,005.5	1414	446,860.8	2070	778,001.6	2363	925,904.2	2884	547,057.9	2862	260,817.1	2689	691,662.2
Count	Count	2194	3,703,216.1	2738	2,623,088.3	2730	2,362,742.5	3508	3,204,907.5	3849	3,636,842.7	4259	2,806,725.5	4054	2,444,070.7	3515	2,444,249.7

		2003	2003	2003	2003	2003	2003	2003	2003	2004	2004	2004	2004	2004	2004
		Q1	Q1	Q2	Q2	Q3	Q3	Q4	Q4	Q1	Q1	Q2	Q2	Q3	Q3
		Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH	Ldc Accts	DTH
COLUMBIA GAS OF PENNSYLVANIA	COMM	201	261,420.6	193	306,320.2	213	293,011.4	227	582,345.4	236	881,968.0	224	634,209.2	2	43,000.0
COLUMBIA GAS OF PENNSYLVANIA	RES	119	1,730.4	64	425.6	61	87.1	13	33.3						
EQUITABLE GAS COMPANY	COMM	2	225.0												
GREAT LAKES	COMM	30	338,133.2	18	302,564.2	15	293,993.8	15	321,565.8	15	306,622.5	13	350,384.1		
NATIONAL FUEL GAS COMPANY - PA	COMM	306	789,905.0	294	417,431.8	276	328,593.4	288	635,735.8	291	812,382.4	276	425,351.7		
NATIONAL FUEL GAS SUPPLY	COMM	6	860,000.0	4	700,000.0	5	650,000.0	7	685,000.0	6	850,000.0				
PEOPLES NATURAL GAS	COMM	2396	1,149,870.2	2060	440,340.7	1924	265,974.9	1825	712,526.0	1809	1,194,294.8	1702	520,399.1	473	26,410.8
Count	Count	3060	3,401,284.4	2633	2,167,082.5	2494	1,831,660.7	2375	2,937,206.3	2357	4,045,267.7	2215	1,930,344.1	475	69,410.8

RHOADS
& SINON LLP

James H. Cawley

ph (717) 231-6608
fx (717) 231-6600
jcawley@rhoads-sinon.com

FILE NO. 8462/01

DOCUMENT FOLDER

August 27, 2004

Re: <u>Investigation into Competition in the Natural Gas Supply Market</u>
<u>Docket No. I-00040103</u>

ORIGINAL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Dear Mr. McNulty:

Enclosed for filing are an original and ten copies of the Comments of Constellation NewEnergy, Inc. and Constellation NewEnergy-Gas Division, LLC ("CNE-Gas"), together with an electronic copy of the comments on disk.

Also enclosed as Attachment A to the Comments is the information requested by the Commission's Order in the above-captioned docket, including sales volume and customer number by class for each of the quarters of the years 1999 to 2004 for CNE-Gas.

Please call me if you have any questions about this filing.

Very truly yours,

RHOADS & SINON LLP

By: James H Cawley
James H. Cawley

Enclosures

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural Gas Supply Market | **Docket No. I-00040103**

COMMENTS AND SPECIFIED INFORMATION FILED BY CONSTELLATION NEWENERGY, INC. AND CONSTELLATION NEWENERGY-GAS DIVISION, LLC

I. Introduction.

Constellation NewEnergy-Gas Division, LLC (CNE-Gas)[1] is pleased to submit these comments to the Pennsylvania Public Utility Commission ("Commission") pursuant to the Commission's order in this docket. Enclosed as Attachment A to these comments is the specific information for CNE-Gas requested, including sales volume and customer number by class for each of the quarters of the years 1999 to 2004.

By way of background, CNE-Gas is a wholly owned subsidiary of Constellation Energy Group, Inc. ("Constellation"), a Baltimore-based Fortune 500 company that traces its history through almost two centuries. Constellation is a family of companies whose members include Constellation Power Source, Inc. (responsible for wholesale sales and risk management), Constellation NewEnergy, Inc. ("NewEnergy") (responsible for competitive retail sales of electricity and natural gas where market opportunity exists), Constellation Generation Group, LLC (generation owner, developer, and operator); and Baltimore Gas and Electric Company (a regulated natural gas and electricity company in central Maryland).

[1] Both Constellation NewEnergy-Gas Division, LLC and Constellation NewEnergy, Inc. are licensed Natural Gas Suppliers in Pennsylvania. During the period for which the PUC is requesting data, Constellation NewEnergy, Inc. did not conduct natural gas sales in Pennsylvania; therefore data is provided only for Constellation NewEnergy-Gas Division, LLC.

In Pennsylvania, NewEnergy is a licensed natural gas supplier ("NGS") and electric generation supplier ("EGS") that provides customized energy solutions and comprehensive energy services to commercial and industrial customers. NewEnergy's local management allows for tailor-made service geared towards lowering energy costs and hedging price volatility based on the exigencies of individual markets. NewEnergy has served electricity customers in the Duquesne, Penn Power, PECO, Penelec, Metropolitan Edison and PPL service territories in Pennsylvania. In addition to its participation in Pennsylvania's markets for electricity, NewEnergy is licensed as a competitive retail supplier for natural gas and/or electricity in 17 states, the District of Columbia, one Canadian province, and operates out of 10 regional offices.

CNE-Gas serves natural gas customers in Pennsylvania in the service territories of Columbia Gas, UGI and National Fuel. In addition to its customers in Pennsylvania markets, CNE-Gas supplies natural gas and related services to over 2,500 accounts located in 34 other states, including industrial customers, municipalities, local distribution companies and cogeneration facilities. CNE-Gas has provided gas supply to such customers for over 12 years. In an average month CNE-Gas transports between 11 and 12 Bcf of natural gas. On any given day, CNE-Gas typically ships gas through 25 or more interstate pipelines and more than 70 local gas distribution companies. CNE-Gas operates out of Louisville, Kentucky and eight regional offices.

CNE-Gas and NewEnergy view the Pennsylvania market as important to their business goals and objectives. We are hopeful that the efforts by this Commission will create a robustly competitive gas market, such as was envisioned by the legislation.

II. Background.

On June 22, 1999, Governor Tom Ridge signed Pennsylvania's Natural Gas Choice and Competition Act ("Act"). The Act reflected input from a collaborative group of natural gas stakeholders convened by the then-Chair of the Commission. The legislation ultimately enacted was seen as a natural outgrowth of 1) the then-successful electric choice act and pilot programs, and 2) the success of the industrial gas market in the Commonwealth. Legislative proposals considered by the stakeholder group were premised on an evolution of – not a revolution in – markets and a recognition that orderly development, even at the expense of speed, was best for all stakeholders. Concerns that a variety of provisions in the legislative recommendations were potential barriers to market development resulted in a "look back" provision in the recommendations in order to provide a mechanism to address any of the recommendations that ultimately impeded market development or were not in tune with current market conditions. That "look back" is codified in Section 2204 (g) of the Act. In our specific comments below, CNE-Gas provides details on our experience in Pennsylvania's industrial gas markets, and makes specific recommendations on improvements to these markets.

III. Topics to be addressed per the Commission's May 27, 2004 Order.

The CNE-Gas business in Pennsylvania and other markets has been, and continues to be, to provide cost-effective and reliable natural gas supply and related services only to industrial companies and other large-volume, non-residential customers. Therefore, the comments provided herein will focus principally on issues related only to the provision of service to such customers in Pennsylvania.

A. *The assessment of the level of competition in Pennsylvania's natural gas supply service market.*

Pennsylvania's natural gas market is reasonably liquid and transparent for industrial customers. It is CNE-Gas' experience that multiple natural gas marketers compete in the service territories where CNE-Gas provides services. However, industrial customers could be better served and provided more opportunities for retail choice absent certain unreasonable credit requirements and overly restrictive penalty provisions imposed by some utilities. CNE-Gas believes that by revising these requirements, retail choice opportunities to industrial and other large-volume, non-residential customers can be enhanced while at the same time providing adequate protection to bundled utility customers. In doing so, the Commission can offer industrial customers in Pennsylvania additional opportunities to save money, thereby improving the economic climate for existing and prospective corporate citizens in Pennsylvania.

B. *The effect of the price of natural gas on competition.*

Natural gas is sold and traded in a very liquid, highly transparent market. The level of competition, *per se*, is unlikely to change as the commodity price changes. Marketers serving large-volume, non-residential load are able to compete on the basis of beating the utility's price for gas, as well as leveraging access to transportation capacity on the pipelines serving local distribution companies. This is in stark contrast to services provided to residential customers and others in retail gas choice programs because the transportation capacity is a mandatory assignment by the utility to the marketer. Hence, there is no difference in price for the transportation of natural gas that the marketer can offer to be compared to the utility's price for the transportation of natural gas. Marketers serving large-volume customers also compete by offering new products and services to customers, including sophisticated hedging techniques that allow customers to manage their gas consumption and bills. A customer whose natural gas bill does not constitute a large portion of the operating budget has less need for these types of products and services.

C. ***The effect of consumer education on competition.***

For competition to occur in the residential and small commercial markets, consumer education is a critical element that helps customers gain confidence in the market. However, with regard to large customers, consumer education should be limited to unbiased information regarding the availability and nature of Supplier of Last Resort service provisions of the tariff. Utilities should not promote their Supplier of Last Resort service as a competitive alternative.

The option of retail choice has been available to industrial companies and other non-residential gas users for many years. This option was facilitated by various Federal Energy Regulatory Commission orders during the 1980s and 1990s regarding interstate pipelines, and supporting actions by this Commission and other state utility Commissions to ensure that open-access intrastate pipelines allowed the benefits of retail choice to be available to eligible end users. This is the service that this Commission can continue to support and encourage for large gas users who choose to arrange for their own supplies, ensuring fair and non-discriminatory behavior by regulated utilities. Absent a level playing field, retail choice is an option not fully realized – for large gas users as well as participants in the retail choice programs.

In industrial and large commercial gas markets, information is key to providing superior customer service. Marketers have developed products and services that revolve around tailored information and communicating this market information to the customer who can then make informed choices for natural gas supply. In residential and small commercial markets, where the relationship and the information are not individually tailored, solid and credible information is required. Pennsylvania's Electric Choice program information campaign was a great example of a successful customer information campaign. When the market appears ripe for natural gas choice in mass markets, the Commission would be well served by developing a similar campaign for gas choice information.

D. *The effect of supplier financial security requirements on competition.*

CNE-Gas believes it is critical that those entities that wish to market natural gas in Pennsylvania should be financially and technically strong. Presently, the Commission has approved tariff provisions that place the utilities in the role of ensuring that gas marketers are financially capable of performing the services that they offer to customers. However, it is arguable whether this function – ensuring a natural gas marketer's financial soundness – should remain in the hands of the utility who remains a competitor of that same marketer. Unless the utility has exited the merchant function, the Commission should reconsider whether credit review, if necessary after a marketer's initial license approval, should remain as a continuing utility function. At present, in Pennsylvania gas utilities still compete with marketers to serve retail customers. Placing credit approval with the utilities could potentially lead to undue barriers imposed by utilities to market entry or expansion of existing business by marketers. At the very least, in the case of CNE-Gas, the existing credit requirements have produced a somewhat chilling effect on the level of activity we have chosen to pursue and the pace at which we have elected to expand in Pennsylvania.

In addition, CNE-Gas respectfully suggests that in determining the appropriate credit requirements a supplier must meet, a supplier's history of activity on the utility's system should be considered as well as the nature of the service the supplier intends to provide. As evidenced in Attachment A, CNE-Gas has been providing gas services to customers in Pennsylvania for several years, and presently serves customers in three utility service territories. And, as previously noted, CNE-Gas only provides service to non-residential, large-volume customers. However, CNE-Gas' experience has been that a utility may disregard a supplier's past performance and present nature of business and impose increased credit requirements for no apparent reason when given the opportunity to do so. This occurred to CNE-Gas earlier in 2004 when it provided notice to this Commission of a business name-change. One utility, but not two others, used this notification as an opportunity to require that CNE-Gas provide a parental guaranty, even though (a) CNE-Gas had been transporting gas on its system for years and a parental guaranty had not been required previously, and (b) CNE-Gas had never defaulted in service or payment. This action was in direct contrast to how the other two utilities reacted, issuing letters stating that existing credit requirements were met given the history and continued nature of our service in their territory.

CNE-Gas suggests that the Commission reconsider what the role of a utility should be concerning the financial requirements of a marketer serving only industrial customers. CNE-Gas further suggests that the Commission should also review the practices and requirements of regulated utilities to ensure that undue credit requirements do not dampen the competitive nature of Pennsylvania's retail gas market for industrial customers.

E. ***The effect of natural gas distribution company penalties and other costs on competition.***

1. Capacity assignment

One of the most worrisome provisions in the legislation enacted was the mandatory assignment of the Natural Gas Distribution Company's ("NGDC") pipeline capacity to marketers participating in residential and small commercial choice programs. Despite requirements for collaborative efforts on solving the pipeline capacity issue, NGDCs continue to buy and assign pipeline capacity. An NGDC has no incentive to reduce or reform contracts and the marketers <u>are forced to pass this cost</u> of the capacity to customers, thus becoming less competitive. In our view, mandatory assignment may be the primary reason that natural gas choice has not occurred in small commercial and residential markets.

2. Use of penalties and Operational Flow Orders as economic tools

CNE-Gas respectfully suggests that the Commission review the manner in which utilities calculate penalties and recovery of costs related to imbalances and unauthorized gas use by transportation customers in an OFO-defined situation. Existing terms and conditions of one utility, for example, arguably allow for excessive recovery of costs. Specific tariff provisions address billing imbalance delivery service volumes and assessing charges for unauthorized gas usage during and Operational Flow Order ("OFO") period. CNE-Gas is not suggesting that penalties for imbalances and unauthorized use of gas during an OFO are inappropriate; the concern presented here is the level of penalties and degree of punitive action relative to the issue at hand and actual costs incurred by the utility. In essence, a two-part penalty is assessed for over-delivery of gas volumes, a per-Dth charge and a demand charge. While CNE-Gas believes the charge of $27.50/Dth is excessive, the larger inequity is the manner in which the utility calculates the demand charge portion of the penalty. In practice, the utility derives the $/Dth rate for demand costs from the average daily capacity value of the month times the number of days in the month with a BTU factor adjustment. Then, the utility determines this "value" based on the difference between the highest published midpoint Gas Daily gas price into the utility's market and the midpoint Henry Hub price on that day. The concern is twofold. First, the tariff does not specify that the average daily value is to be multiplied "times the number of days in the month," but rather states that the customer will be charged the "applicable interruptible standby reservation charge per Mcf of Daily Standby Requirement and/or per Mcf of Nominated Standby Requirement." Second, in deriving the total demand costs to be collected in the manner that is done, the utility collects excessive revenues relative to the infraction that occurred. In one instance with which CNE-Gas is familiar, the amount of a customer's penalty was more than seven times the customer's bill for that month's consumption of gas. CNE-Gas posits the existing tariff language in this instance provides too much discretion to the utility, leading to unjust levels of penalties being assessed.

F. ***Discuss any avenues, including legislative, for encouraging increased competition in Pennsylvania.***

CNE-Gas is of the view that the competitive natural gas market in Pennsylvania is in general successful for industrial and other large-volume customers. With the exception of the tariff issues discussed above, CNE-Gas does not perceive a need for further legislative efforts at this time. However, CNE-Gas recognizes that other licensed suppliers with a larger level of activity serving Pennsylvania's natural gas market may have experienced other problems that CNE-Gas has not experienced due to its more limited market presence at this point in time. CNE-Gas would welcome the opportunity to provide comments on such issues that may be raised in this proceeding by other suppliers.

Clearly, though, if the Commission and other parties wish to see competition develop in residential and small commercial markets, additional legislative efforts to address, for example, mandatory assignment of upstream pipeline capacity to these customers as a barrier should be considered.

IV. Conclusion.

CNE-Gas appreciates the opportunity to submit these comments and we look forward to continued participation in Pennsylvania's energy markets.

Respectfully Submitted:

Ralph E. Dennis

Ralph E. Dennis
Director Regulatory Affairs
Constellation NewEnergy-Gas Division
9960 Corporate Campus Drive, Suite 200
Louisville, Kentucky 40223
(502) 214-6378
Ralph.Dennis@Constellation.com

August 27, 2004

Attachment A

PA PUC Docket No. I-00040103 Submitted August 27, 2004 - Attachment A

Constellation NewEnergy-Gas Divison - Natural Gas Deliveries in Pennsylvania CY1999 - 2Q2004 (Volumes in Dth)

	2nd Quarter 1999			3rd Quarter 1999			4th Quarter 1999			1st Quarter 2000		
LDC	4/1/1999	5/1/1999	6/1/1999	7/1/1999	8/1/1999	9/1/1999	10/1/1999	11/1/1999	12/1/1999	1/1/2000	2/1/2000	3/1/2000
CPA	15,470.00	10,560.00	18,170.00	15,985.00	10,510.00	16,740.00	16,603.00	10,000.00	10,000.00	19,166.00	10,000.00	16,275.00
CPA												
CPA												
CPA												
CPA												
CPA												
CPA												
CPA												
NAT FUEL												
NAT FUEL												
NAT FUEL												
UGI												
UGI												
UGI												
UGI												
	15,470.00	10,560.00	18,170.00	15,985.00	10,510.00	16,740.00	16,603.00	10,000.00	10,000.00	19,166.00	10,000.00	16,275.00
	44,200.00			43,235.00			36,603.00			45,441.00		

2nd Quarter 2000			3rd Quarter 2000			4th Quarter 2000			1st Quarter 2001		
4/1/2000	5/1/2000	6/1/2000	7/1/2000	8/1/2000	9/1/2000	10/1/2000	11/1/2000	12/1/2000	1/1/2001	2/1/2001	3/1/2001
25,241.00	15,748.00	15,010.00	16,400.00	10,000.00	16,136.00	16,386.00	16,350.00	19,045.00	18,471.00	16,980.00	15,934.00
									10,150.00	8,040.00	6,355.00
					2,992.00	6,014.00					
							28,651.00	30,173.00	26,633.00	71,269.00	15,375.00
							7,449.00	6,778.00	5,940.00	10,976.00	4,865.00
							10,216.00	5,123.00	6,162.00	8,705.00	5,492.00
							4,143.00	14,233.00	15,165.00	19,136.00	12,396.00
25,241.00	15,748.00	15,010.00	16,400.00	10,000.00	19,128.00	22,400.00	62,666.00	61,119.00	67,356.00	115,970.00	48,021.00
55,999.00			45,528.00			146,185.00			231,347.00		

2nd Quarter 2001			3rd Quarter 2001			4th Quarter 2001			1st Quarter 2002		
4/1/2001	5/1/2001	6/1/2001	7/1/2001	8/1/2001	9/1/2001	10/1/2001	11/1/2001	12/1/2001	1/1/2002	2/1/2002	3/1/2002
16,170.00	10,000.00	10,000.00	16,399.00	16,399.00	16,926.00	16,700.00	17,745.00	9,085.00	18,875.00	20,349.00	19,078.00
							6,760.00	4,988.00	5,500.00	6,000.00	3,500.00
							8,070.00	8,749.00	9,250.00	7,700.00	8,835.00
8,850.00	10,000.00	9,200.00									
2,827.00	2,396.00	6,229.00	8,271.00	11,534.00	16,984.00	17,909.00	20,452.00	23,266.00	24,181.00	22,884.00	23,068.00
5,425.00	5,308.00	4,106.00	5,371.00	5,078.00	5,242.00	5,092.00	5,713.00	4,026.00	4,986.00	4,616.00	5,130.00
4,776.00	4,856.00	3,364.00	3,034.00	3,628.00	3,481.00	4,093.00	4,500.00	4,835.00	5,868.00	4,910.00	5,760.00
9,364.00	6,679.00	6,655.00	9,646.00	11,292.00	11,304.00	11,262.00	7,929.00	10,432.00	11,157.00	8,514.00	9,664.00
38,048.00	**32,560.00**	**32,899.00**	**33,075.00**	**36,639.00**	**42,633.00**	**43,794.00**	**63,240.00**	**54,949.00**	**68,660.00**	**66,459.00**	**65,371.00**
103,507.00			**112,347.00**			**161,983.00**			**200,490.00**		

2nd Quarter 2002			3rd Quarter 2002			4th Quarter 2002			1st Quarter 2003		
4/1/2002	**5/1/2002**	**6/1/2002**	**7/1/2002**	**8/1/2002**	**37,500.00**	**10/1/2002**	**11/1/2002**	**12/1/2002**	**1/1/2003**	**2/1/2003**	**3/1/2003**
17,020.00	13,580.00	16,405.00	14,837.00	4,532.00	3,175.00	12,500.00	15,280.00	18,856.00	19,185.00	16,850.00	15,596.00
4,159.00	1,981.00	1,048.00	1,321.00	310.00	90.00	725.00					
7,306.00	7,709.00	8,430.00	9,610.00	8,370.00	8,100.00	5,300.00					
							20,500.00	20,000.00	18,600.00	20,201.00	16,500.00
			-7,151.00	-7,258.00	-8,829.30	-6,327.90	-5,271.40	15,128.70	15,196.00	14,620.90	15,390.70
19,070.00	16,064.30	13,116.00	14,301.00	14,223.00	16,608.00	19,979.00	29,441.00	30,402.00	12,813.00	25,397.00	24,762.00
4,053.60	7,489.50	9,202.00	9,059.00	10,506.00	9,236.00	10,130.00	9,956.00	10,160.00	8,508.00	8,541.00	8,578.00
4,551.80	4,740.80	3,571.00	3,373.00	3,644.00	3,310.00	4,469.00	5,482.00	5,591.00	6,226.00	6,164.00	6,580.00
7,411.90	6,959.20	6,286.00	8,402.00	8,582.00	9,733.00	10,602.00	9,034.00	12,215.00	11,981.00	10,718.00	11,740.00
56,160.40	**51,564.60**	**51,772.00**	**45,350.00**	**34,327.00**	**31,689.70**	**46,775.10**	**75,387.60**	**100,137.70**	**80,528.00**	**91,773.90**	**87,406.70**
159,497.00			**111,366.70**			**222,300.40**			**259,708.60**		

2nd Quarter 2003			3rd Quarter 2003			4th Quarter 2003			1st Quarter 2004		
4/1/2003	5/1/2003	6/1/2003	7/1/2003	8/1/2003	9/1/2003	10/1/2003	11/1/2003	12/1/2003	1/1/2004	2/1/2004	3/1/2004
16,045.00	15,945.00	13,112.00	7,515.00	4,736.00	1,955.00	6,996.00	482.00	7,076.00	14,400.00	12,500.00	17,400.00
					600.00	953.00	900.00	1,100.00	1,700.00	2,100.00	2,000.00
13,000.00	9,000.00	11,500.00	7,960.00	8,080.00	11,800.00	8,870.00	11,000.00	15,500.00	18,000.00	22,000.00	16,500.00
3,720.00	3,600.00	4,000.00	4,239.00	4,100.00	4,400.00	4,500.00	5,500.00	6,000.00	4,642.00	3,420.00	3,630.00
10,906.40	11,156.60	10,233.30	11,042.10	9,841.80	9,208.90	13,968.50	11,568.00	14,333.00	17,429.00	16,846.00	18,113.00
							6,786.00	10,547.00	13,766.00	11,348.00	8,893.00
19,734.00	14,761.00	12,132.00	13,680.00	13,513.00	18,488.00	22,723.00	26,271.00	25,729.00	10,647.00	17,541.00	21,369.00
8,251.00	7,818.00	8,594.00	9,203.00	10,084.00	11,422.00	11,395.00	10,266.00	11,088.00	10,493.00	9,486.00	9,731.00
5,341.00	4,675.00	3,998.00	3,852.00	4,467.00	4,696.00	4,675.00	5,403.00	5,763.00	5,635.00	4,873.00	6,114.00
7,317.00	6,170.00	6,888.00	8,432.00	8,672.00	10,189.00	10,765.00	8,318.00	9,069.00	8,323.00	9,526.00	7,405.00
76,997.40	**66,955.60**	**63,569.30**	**57,491.10**	**54,821.80**	**62,569.90**	**74,080.50**	**78,176.00**	**97,136.00**	**96,712.00**	**100,114.00**	**103,750.00**
207,522.30			**174,882.80**			**249,392.50**			**300,576.00**		

2nd Quarter 2004			Complaints
4/1/2004	5/1/2004	6/1/2004	
11,200.00	15,000.00	10,903.00	No complaints/disputes were received by Constellation NewEnergy-Gas Division from customers during the period CY1999-2Q2004. Note: Through December 27, 2002 CNE-Gas was previously known as Alliance Energy Services, LLC.
500.00	500.00	500.00	
14,700.00	13,125.00	12,675.00	
2,383.00	2,430.00	3,300.00	
256,633.00	253,930.00	226,400.00	
18,836.00	15,382.00	16,304.00	
6,885.70	4,367.10	3,481.30	
16,530.00	14,139.00	13,323.00	
9,711.00	9,887.00	10,916.00	
5,530.00	4,622.00	3,695.00	
7,354.00	4,565.00	6,520.00	
342,908.70	**333,382.10**	**301,497.30**	
	977,788.10		

COMMONWEALTH OF PENNSYLVANIA

ORIGINAL

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

August 27, 2004

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

Enclosed for filing, are an original and ten (10) copies of the Office of Consumer Advocate's Comments, in the above-reference case.

The Office of Consumer Advocate respectfully requests the opportunity for Consumer Advocate, Irwin A. Popowsky, to testify at the *en banc* hearings scheduled for September 30, 2004.

Copies have been served to the parties as indicated on the enclosed Certificate of Service. Should you have any questions, please contact me on 717-783-5048.

Sincerely,

DOCUMENT FOLDER

Stephen J. Keene
Senior Assistant Consumer Advocate

Enclosures
80745.doc

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Investigation into Competition in the Natural Gas Supply Market	: :	Docket No. I-00040103

DOCUMENT
FOLDER

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

DOCKETED
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Irwin A. Popowsky
Consumer Advocate

Stephen J. Keene
Tanya J. McCloskey
Senior Assistant Consumer Advocates

Office of Attorney General
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

DATED: August 27, 2004

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TABLE OF CONTENTS

I. INTRODUCTION

On May 28, 2004 the Commission entered an Order opening an Investigation into Competition in the Natural Gas Supply Market. ("May 28 Order"). This investigation was launched in accordance with Section 2204(g) of the Natural Gas Choice and Competition Act ("Act") which requires the Commission to initiate an investigation or other appropriate proceeding to determine whether effective competition for natural gas supply services exists in Pennsylvania. 66 Pa.C.S. §2204(g). The Act requires the Commission to conduct such an investigation five years after the effective date of the Act and to report its findings to the General Assembly. *Id.*

The Act was passed in 1999 and required each Pennsylvania Natural Gas Distribution Company ("NGDC") to open up its service territory to natural gas supply retail choice. Prior to passage of the Act, retail choice was only available to residential and small commercial customers through pilot programs in the service territories of several NGDCs in western Pennsylvania. Natural gas transportation programs for industrial and large commercial customers had generally been available in all of the NGDC service territories throughout the Commonwealth for many years prior to the Act. The Office of Consumer Advocate ("OCA") has generally been supportive of making retail choice available to residential customers and was an active participant in all of the NGDCs' restructuring proceedings that took place during 1999 and 2000.[1]

The 1999 natural gas legislation came on the heels of, and was in large part based on, the legislation passed by the General Assembly in 1996 to restructure the Pennsylvania electric industry. In both cases, a major thrust of these restructuring statutes was to "unbundle"

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[1] Pursuant to Section 2212 of the Act, retail choice did not have to be offered in the service territory of Philadelphia Gas Works ("PGW") until September 1, 2003. The OCA was an active participant in the restructuring proceeding of PGW during 2002 and 2003.

the rates of our electric and natural gas companies so that retail customers would have greater access to competitively priced electric generation and natural gas commodity service. Significantly, in both cases, retail customers retained the option of continuing to purchase electric generation ("Provider of Last Resort") or natural gas commodity service ("Supplier of Last Resort") from their incumbent electric or natural gas distribution company. To the extent that unregulated suppliers were able to offer electric generation or natural gas commodity service on more attractive terms, retail customers were free to select one of those suppliers, and the incumbent utility was required to distribute the unregulated supply service to the customer through its regulated electric distribution lines or natural gas pipes.

It is important to consider that the Commission is undertaking this review during a period of significantly increased wholesale natural gas prices and price volatility compared to the 1998-1999 period when retail gas competition was adopted and implemented. Natural gas was trading at the Henry Hub at approximately $2/MMBtu in 1999, yet has fluctuated widely up to $10/MMBtu in January 2001, down to slightly over $2/MMBtu again in January 2002 and then a steady increase to over $5/MMBtu in 2004. Natural gas traded on the spot market in the second half of 2000 at a price that was more than four times higher than the 1998 and 1999 prices. Most observers predict that natural gas prices will remain relatively high and that spot market prices will average over $5/MMBtu for the long term. This significant increase in spot market natural gas prices has impacted retail natural gas competition, particularly for residential and small commercial customers, and should be taken into account in the Commission's evaluation and recommendations for the future of natural gas competition in the Commonwealth.

The OCA has been closely following the development of retail choice for natural gas supply in Pennsylvania by compiling natural gas shopping statistics and preparing shopping guides to assist customers in making informed choices about their natural gas supply service. In reality, despite some early interest in retail choice, the vast majority of residential natural gas customers in Pennsylvania continue to purchase their natural gas supply from their incumbent NGDC. The following chart sets forth the number and percentage of residential natural gas customers who were being served by Natural Gas Suppliers ("NGSs") as of July 1, 2004:

PA Gas Switching Statistics as of 07/01/04			
Company	**Total Residential Customers**	**Residential Customers Served by Alternative Suppliers**	**Percent of Residential Customers Served by Alternative Suppliers**
Columbia Gas	343,706	74,918	21.8
Dominion Peoples	329,091	86,614	26.3
Equitable Gas	240,660	19,902	8.3
National Fuel Gas	199,904	0	0
PECO Gas	418,168	1,732	0.4
PG Energy	140,530	0	0
PGW	481,000	0	0
PPL Gas	65,796	0	0
TW Phillips	55,437	0	0
UGI Gas	268,391	2,995	1.1
Valley Cities	4,655	0	0
Totals	**2,547,338**	**186,161**	**7.3**

As shown in this chart, nearly all of the residential retail choice activity has occurred among the customers of three western Pennsylvania-based NGDCs – Columbia,[2] Dominion Peoples, and Equitable. A primary reason for this appears to be the fact that these companies already had substantial retail choice "pilot" programs ongoing well before the 1999 Act was passed. During those pilot programs, customers who switched from their NGDC to an alternative gas supplier were exempted from paying the then-applicable 5% gross receipts tax on their monthly gas bills. In the 1999 legislation, however, this advantage was eliminated because

[2] In addition to serving customers in western Pennsylvania, Columbia also serves customers in several counties in southcentral Pennsylvania.

the General Assembly eliminated the gross receipts tax on ***all*** natural gas service, including gas supply service provided by the NGDC.

As explained below, the results of the implementation of retail choice for residential customers has been mixed. There has been virtually no retail choice activity for residential customers in the natural gas service territories in the eastern part of Pennsylvania. Even among the three western Pennsylvania gas utilities, the number of customers served by NGSs has decreased by about 20% since the beginning of 2001.

In general, residential customers have been and likely will continue to be slow to change to alternative suppliers for many reasons. There are customers who are unwilling or reluctant to make any change, and others who may believe that the savings on the bill would be too small to undertake the complicated comparisons and choice. Furthermore, there are relatively few natural gas suppliers actively marketing to residential customers – even in those NGDC service territories with higher shopping levels. In some NGDC service territories there are no marketers making offers at all. In those service territories where there is retail choice activity, the level of supplier interest has been hard to retain from year to year during the period that retail choice has been in effect. Marketers have moved in and out of the residential market and some have abruptly exited the market. This lack of consistent options in this market has made it difficult to educate consumers about making choices and has made it difficult to realize the potential benefits of natural gas customer choice.

Even in those service territories where there has been some level of retail choice activity for residential customers, it is not clear whether those consumers are receiving significant sustained benefits. In those service territories where there has been substantial numbers of residential customers participating in retail choice, the trend appears to be toward those customers returning to their NGDC for natural gas supply service.

The OCA would note that the relatively low numbers of Pennsylvania residential customers who have opted to take natural gas supply service from an alternative supplier is also a reflection of how difficult it is for many residential customers to shop for natural gas supply service. Customers must first make a determination of what they are paying for that portion of their natural gas supply service that is subject to competition, *i.e.*, the "price to compare." Even though the price to compare is generally available from the NGDC, or from other sources such as the OCA Shopping Guides, it is still no easy task for a typical residential customer to make a comparison of an NGS offer when the NGDC's price to compare changes on a quarterly basis. This is especially true when it can take up to 45 days or more for a switch to an alternative supplier to take place. In the interim, a quarterly update by the NGDC could turn what looked like a good deal into a bad deal before the term of the new contract with the NGS even commences. Such situations lead to customer confusion and frustration with the retail choice process. Such problems are not as prevalent in the electric choice programs, since the electric generation "price to compare" is set on an annual basis and has generally been determined well in advance. This makes it easier for customers to shop and make meaningful comparisons to offers in the competitive market. In addition, electric distribution company generation rates are not reconcilable for over- and under-recoveries and are not subject to migration riders as is the case for natural gas supply service.

Furthermore, it is not clear that there is substantial interest on the part of NGSs to serve residential customers in Pennsylvania. NGSs may find that residential choice customers are difficult to serve for a myriad of reasons, including acquisition costs, load factors, credit risk, and other reasons. This may be particularly true for low-income and payment troubled customers.

With this background, the OCA submits that the focus of this investigation should not be solely on efforts to increase the level of retail choice activity in Pennsylvania. While encouraging the benefits of increased retail choice is an important goal in this investigation, it is equally important to ensure that consumers are not made worse off by the single-minded pursuit of this goal. The intent of the Act was to provide benefits to consumers by introducing retail choice to Pennsylvania, not to harm them by increasing natural gas cost rates and volatility or diminishing service and reliability.

The OCA strongly urges the Commission to steer away from proposals for residential customer choice that would increase costs to the customers as a means of encouraging switching. These models offer little in the way of positive benefits for consumers and treat switching as an end, rather than as a means to lower rates and reliable service.

Many customers have already made their choice, and that choice is to continue to purchase natural gas supply from the incumbent NGDC. Since this is currently the vast majority of residential customers in Pennsylvania, it is essential that the Commission ensure that NGDCs continue to provide safe, adequate and reliable natural gas sales service at the lowest cost possible. Furthermore, the Commission should continue to urge utilities to engage in purchasing practices that will enable NGDCs to provide some price stability that will assist customers in budgeting their household expenses. Stability in rates and customer bills will lead to better payment practices and fewer uncollectibles.

As subsequently discussed, there are several things that could be done to improve the operation of Pennsylvania's natural gas choice programs that reflect Pennsylvania's five-year experience, as well as the experience in other states. These measures could increase the potential for residential consumer benefits from these retail choice programs. However, the emphasis should remain on maintaining least-cost, reliable service for all customers, including those customers that continue to receive natural gas supply service from their NGDC.

II. RESULTS OF GAS RETAIL CHOICE FOR RESIDENTIAL CUSTOMERS IN PENNSYLVANIA

A. Summary Of Current Retail Activity In Pennsylvania.

In Pennsylvania, natural gas customer choice results in the individual NGDC service territories have been mixed. In some NGDC service territories, there is currently no retail choice activity for natural gas supply service. In those areas, there are no customers participating in customer choice programs, and no suppliers appear to be soliciting customers (T.W. Phillips, NFGD, PPL, PG Energy, PGW). However, in certain other NGDC service territories, there is some participation in customer choice programs. (Columbia, Dominion Peoples, Equitable, UGI and PECO). However, several of these companies have choice programs that have very low levels of participation. For example, to OCA's knowledge, only one supplier is soliciting residential customers in UGI's service territory, and only a few thousand customers have elected to purchase service from that supplier.

Several NGDCs in the Commonwealth initially experienced significant levels of participation in their customer choice programs. In the early stages of customer choice, Dominion Peoples, Columbia and Equitable had participation rates of up to 30 percent of their residential customers. However, today, those participation levels have declined significantly as have supplier marketing efforts.

For example, as of July 2002, the rate for residential customers ("price to compare") of Columbia Gas of Pennsylvania ("Columbia") was 47.03 cents per ccf. There were four NGSs making offers to residential customers for both fixed price and variable price products at that time. There was only one variable price offer being made at the time that was less than Columbia's price to compare. The fixed rate offers were for a term of 1 or 2 years and reflected a higher price than Columbia's price (which is subject to change four times per year). This premium varied from two cents to ten cents per ccf for the fixed rate NGS offers. For Dominion Peoples' customers, there were two NGSs offering services to residential customers, but the price premium for fixed rate offers for that service territory was significantly above the Dominion People's quarterly price to compare. There was only one marketer seeking residential customers in the service territories of Equitable Gas and UGI, and none for National Fuel Gas, PECO Gas, PG Energy, PPL Gas, TW Philips.

In December 2002, this pattern was replicated, with the exception of one NGS seeking PECO Gas residential customers, but at a significantly higher price for monthly variable service. At that time, the prices offered by three of the four NGSs to Columbia's residential customers were higher than Columbia's price to compare even for variable rate offers and much higher for fixed rate offers.

In early 2003, the Commission reported that there were 78 licenses issued to NGSs. Only a handful of those were actively serving residential choice customers. The most recent information in the OCA's Natural Gas Shopping Guide issued in August 2004 shows that there are four NGSs still making offers to residential customers in Columbia's service territory, one for Dominion Peoples, one for PECO Gas, one for UGI Gas, and none for Equitable Gas, National Fuel Gas, PG Energy, PGW, PPL Gas, or T.W. Phillips. With respect to the Columbia service territory, several offers for variable rate products at less than the current Columbia Gas price to compare are available and three of the four NGSs are offering a fixed price service at less than the current price to compare. However, the scope and variety of these pricing options from multiple marketers are not available in any other NGDC service territory for residential customers. There is currently no information that has been compiled in Pennsylvania that sets forth the level of customer savings that has come about as a result of retail choice.

It is clear that widespread competition for natural gas service is not available to most of Pennsylvania's residential customers and that only residential customers in Columbia's service territory have routinely been offered more than one alternative natural gas supply service in the past five years. Most residential natural gas customers continue to receive natural gas supply service from their NGDC and have not been offered lower prices or alternative services by retail natural gas suppliers.

B. Terms and Conditions Of Retail Choice Programs In Pennsylvania.

Many of the natural gas supply offers made to residential customers, especially those made most recently during the periods of high natural gas price volatility in the wholesale markets, have been more expensive than the price to compare offered by the incumbent utility. In particular, fixed price offers have often carried a significant premium over the current price to compare. During the periods where this pattern has not been in effect, *i.e.*, when natural gas suppliers were able to provide a product that offered savings to residential customers, there was generally greater shopping activity.

Although the customer choice programs operated by each Pennsylvania NGDC differ with respect to specific terms and conditions, there are features generally common to all of the programs. Pursuant to the provisions of the Act, NGDCs assign a *pro rata* share of the interstate pipeline capacity they reserve to alternative suppliers. Suppliers use the assigned capacity to deliver a specific quantity of gas, as determined by the NGDC, to the NGDC on a daily basis. The base rates charged by the NGDC for distribution service to choice customers are the same distribution charges assessed to customers electing to purchase their natural gas supply service from the NGDC.

The capacity assignment provisions contained in the Act were intended to address two important concerns: (1) to ensure that suppliers had adequate and reliable resources to deliver gas to the NGDC to serve its customers; and (2) to ensure that NGDCs did not incur, and remaining sales customers did not have to pay, for "stranded" interstate pipeline costs associated with the customers who migrated to service by an alternative supplier. The capacity assignment feature ensured reliability and fairness to both customer choice participants and customers remaining on the NGDC's sales service.

Pennsylvania has adopted a reasonable set of consumer protection policies and programs to accompany the move to retail natural gas competition. The Commission's regulations require natural gas suppliers to disclose key terms and conditions to new customers, establish procedures to assure customer authorization and prevent slamming, regulate key consumer contract terms, and establish criteria for licensing of natural gas marketers. However, contrary to the approach used in retail electric competition, the financial assurance or security imposed on retail natural gas marketers is reflected in individual NGDC tariffs and policies and not subject to a statewide approach as part of the Commission's licensing process. Pennsylvania's overall consumer protection policies and programs have prevented many of the incidents prevalent in other states of marketing abuse and allegations of deceptive marketing practices.

However, two incidents should be borne in mind by the Commission as it considers proposals to reform or make changes in the Commonwealth's retail natural gas competition policies. First, the failure of Titan Energy, a supplier that declared bankruptcy and abruptly exited the retail market in 2000, resulted in numerous customer complaints. Second, NewPower obtained Columbia Energy's retail customers in late 2000 when Columbia Energy withdrew from the market. Some of NewPower's practices caused numerous customer complaints to be filed concerning its customer notification and billing practices. NewPower later declared bankruptcy and exited the market, causing additional customer confusion and complaints.

The inception of customer choice also was accompanied by the development and funding of a statewide consumer education program. In February 2000, the Commission ordered a gas education program at a cost of $1.2 million per year for two years, with an additional option for a third year, paid for by an assessment on NGDCs. The lack of widespread marketing activities, however, resulted in a lower level of activity compared to the roll out of electric choice and some of the natural gas education program funding was subsequently used to focus on the reality of higher natural gas customer bills and how to conserve energy to lower bills rather than how to shop. A customer survey done in early 2003 documented that 62% of Pennsylvania's households were aware of natural gas customer choice. A December 2003 survey documented a slight reduction in this awareness, down to 55%. The final year of the gas choice education assessment was eliminated. The funding has primarily been used over the last year to educate customers about high natural gas bills, payment plan options, and how to access programs to either reduce or help pay bills for qualified customers. The OCA has agreed with this approach.

III. Comparison of Retail Choice In Pennsylvania To Programs In Other States.[3]

A. Introduction.

As of January 2004, twenty-one other States and the District of Columbia had legislation or regulatory programs in place that allow some or all of the jurisdiction's residential customers to purchase natural gas supply from an alternative gas supplier. Most states have not adopted statewide retail choice programs, but instead are in the process of phasing in or allowing pilot programs, some of them very large. In general, residential and small commercial customer migration to alternative suppliers has not grown during the 2003-early 2004 period. According to the Energy Information Administration,[4] enrollment in customer choice programs increased by less than 1 percent in 2003, although the number of eligible customers increased by nearly 4%. Nationally, 13% (4 million) of eligible customers participated in state customer choice programs in 2003. Most of the participating customers are in Ohio and Georgia. Approximately half, or 30 million of the approximately 60 million residential customers in the U.S., have access to a customer choice program.

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3 The OCA was assisted in the preparation of this portion of its comments and the attached Appendix A by Consumer Affairs Consultant Barbara Alexander and Natural Gas Industry Consultant Jerome Mierzwa. Both of these consultants are familiar to the Commission, having testified on behalf of the OCA in numerous proceedings involving restructuring and natural gas issues. The data and information cited in this Section and in Appendix A has been gathered by Ms. Alexander and Mr. Mierzwa as a result of their examination of the retail choice programs in other jurisdictions that they have done as part of this investigation as well as work performed on behalf of other clients. The data and information reported here was gathered by Ms. Alexander and Mr. Mierzwa from available public sources and through informal discussions with participants in the retail choice programs in other jurisdictions, including natural gas distribution company personnel, natural gas marketer personnel and regulators.

4 EIA, Retail unbundling—U.S. Summary, available at http://www.eia.doe.gov/oil_gas/natural_gas/restructure/state/us.html

The level of marketer activity throughout the country has decreased in the last year. The number of marketers licensed to serve residential customers has dropped from 165 to 121 and the number of those marketers who are actively seeking residential customers (*i.e.*, making offers to new customers) has dropped from 159 to 92.[5]

B. Overview Of Retail Choice Programs In Other States.

Pennsylvania's residential customer shopping rates in general reflect the experience in most states, *i.e.*, a few retail choice programs have resulted in shopping rates over 20%, but most states and in most programs, the experience mirrors the lower shopping rates in the eastern Pennsylvania NGDC programs. The states that have experienced sustained levels of significant residential customer migration are several programs in New York, Ohio, and Georgia, which are discussed in more detail in Appendix A, attached hereto. A more extensive discussion of the Illinois experience is also included because of its persistent issues relating to supplier marketing practices and affiliate conduct. The District of Columbia customer choice program for its only NGDC, Washington Gas, currently has a 14% participation rate among residential customers (18,000 customers), with four alternative suppliers offering options to the NGDC "price to compare," down from a high of over 25,000 participants in 2002.[6] Maryland's customer choice participation rate varies dramatically from 4.3% for Columbia Gas residential customers to 21.3% of Washington Gas' residential customers as of March 2004.[7] Michigan's retail customer choice programs are in effect for all major NGDCs. Statewide, approximately

5 *Id*

6 http://www.dcpsc.org/hottopics/gas.ppt

7 http://www.psc.state.md.us/psc/gas/gasenrollmentrpt.htm

250,000 customers are served by alternative natural gas suppliers, but as of December 2002, only 11% of Michigan residential customers who were eligible to shop had selected an alternative natural gas supplier.[8] Certain states that allow customer choice have virtually no participation by residential customers (New Jersey, Massachusetts, West Virginia, New Mexico, Montana). Iowa and California have abandoned choice, at least for residential customers.

In developing its Comments in this investigation, the OCA examined in detail the natural gas retail choice programs in several other states. A summary of these programs is attached hereto and marked "Appendix A."

C. <u>Limitations To Residential Retail Choice.</u>

It is important to recognize that the prices charged for natural gas supply by NGDCs in Pennsylvania are still carefully regulated by the Public Utility Commission, as they are in most jurisdictions. Each NGDC must make an annual filing to determine its purchased gas cost rate. In that filing, the company must demonstrate that it is pursuing a least cost gas procurement strategy. That is, it is purchasing gas in the wholesale market at the lowest reasonable price in order to provide its customers with reliable service. 66 Pa.C.S. §§1307(f), 1317, 1318. Moreover, the NGDCs make no profit on the sale of the gas commodity. They simply pass through the wholesale gas costs to retail customers on a dollar for dollar basis, with no markup. The NGDCs make their profit elsewhere – through the regulated return on their investment in gas pipes and other facilities that are used to serve their customers.

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[8] See http://www.cis.state.mi.us/mpsc/gas/choicestat.htm. Michigan's approach to the establishment of natural gas supply pricing for NGDCs (who remain the supplier of last resort for all customers) is to emphasize price stability and the PSC has established Fixed Cost Purchasing Guidelines. See the 2003 Annual Report at http://www.cis.state.mi.us/mpsc/reports/annual/2003/CED.htm.

For an NGS to win customers, the NGS has to offer some value to the customer, such as lower prices or long-term fixed price contracts. Since NGDCs are already supposed to be buying and selling the lowest cost gas available, with no profit margin, it is not surprising that very few marketers have been able to come into Pennsylvania, or elsewhere, and offer savings to residential customers off of the regulated retail utility price. Unfortunately for the marketers, they are operating in the same volatile, escalating wholesale natural gas market in which the utilities are buying their gas. In addition, marketers face additional costs in order to acquire customers and earn a profit on the sale of the gas.

Given the inherent difficulties in earning profits, many marketers are unlikely to pursue small commercial or residential customers. The comments that follow are based on the OCA's observations of the choice programs in Pennsylvania and discussions with numerous interested parties in other jurisdictions, including local gas distribution companies and alternative suppliers. The OCA looks forward to reviewing the comments and answers to the Commission questions that will be provided to the Commission by Pennsylvania NGDCs, NGSs and other stakeholders. Review of these comments will help inform the further comments that the OCA hopes to present at the Commission's *en banc* hearing on September 30, 2004.

In general, the natural gas supply service provided by NGDCs against which third-party suppliers must compete consists of two cost components: gas supply commodity charges and demand (or capacity) charges. Gas supply commodity charges are the costs associated with purchase of the commodity itself. Demand charges reflect the costs associated with reserving interstate pipeline transportation and storage capacity utilized to move that gas to the NGDC citygate. In the natural gas commodity market, NGDCs and suppliers face the same wholesale market conditions for natural gas. This is significant because the costs of acquiring commodity represent approximately 75 percent of an NGDC's cost of natural gas supply service. One way for an NGS to compete with an NGDC for natural gas supply service is to utilize its interstate pipeline capacity in a more efficient manner than NGDCs and achieve a lower per unit cost for delivered gas supplies. Most of the Pennsylvania retail choice programs, however, require mandatory *pro rata* assignment of interstate pipeline capacity by NGDCs to NGSs as customers migrate to choice service. It appears that mandatory *pro rata* assignment of capacity may prevent third-party suppliers from minimizing transportation costs and thus being able to compete effectively with NGDCs. When capacity is assigned to an NGS on a *pro rata* basis, the cost of the capacity assigned to the NGS is the same as the cost to the NGDC. Thus, the NGS's costs for the assigned capacity are fixed. In the absence of mandatory *pro rata* assignment, presumably a marketer would arrange for a capacity portfolio to serve all of its customers – not just the newly acquired choice customers – and therefore could possibly obtain some savings in capacity costs. Thus, one way that a marketer can serve customers at rates less than the NGDC would be to obtain such savings on capacity costs, since the marketer and the NGDC both purchase commodity supply in the same competitively-priced wholesale markets.

It must be noted, however, that the purpose of the Pennsylvania Act's provision for *pro rata* assignment of capacity was to ensure that the NGDC did not have, and the NGDC's customers did not have to pay for, stranded capacity costs as customers migrated to retail choice programs. The OCA submits that this key provision of the Act has worked reasonably well in not imposing additional costs on customers who choose to remain with the NGDC as full sales service customers.

NGSs may also compete by offering natural gas supply service under different terms and conditions than the NGDC – such as a fixed rate for a longer period of time.

Currently, all Pennsylvania NGDCs adjust their purchased gas cost rates on a quarterly basis. Some customers may prefer to have a fixed rate contract for service for a period of one year or longer in order to better budget household expenses. Theoretically, NGSs may also compete with NGDCs by combining different services (*e.g.*, natural gas and electric service). However, as discussed above, current fixed price services offered by NGSs are priced at a substantial premium over the NGDCs' quarterly rates and are therefore not attractive. Nor is there any evidence that bundled services are being offered in Pennsylvania on terms that are attractive enough to induce customers to switch to an alternative provider.

D. Features Of Other Retail Choice Programs That May Merit Consideration.

The OCA has examined several other retail choice programs in other jurisdictions, including those states reporting the highest level of choice activity. In discussions between the OCA's consultants and participants in the Ohio choice programs, including marketers, it was indicated that the Ohio programs' lack of mandatory capacity assignment, which allows suppliers to seek lower cost transportation arrangements, is an attractive feature for marketers. However, discussions with marketers in other jurisdictions suggest that marketers either favor mandatory capacity assignment or don't find such provisions problematic. It should be noted that in a capacity constrained region, such as eastern Pennsylvania, the lack of capacity assignment can hinder customer choice development. Furthermore, in programs such as Columbia Ohio's, stranded costs are created as customers migrate from Columbia Ohio to an alternative supplier. These stranded costs are partially paid for by remaining sales customers through their gas cost rate and by choice customers through balancing charges.

Marketers participating in the Ohio choice programs also found the purchase of their receivables by the NGDC at reasonable discounts (*e.g.*, one percent) to be an important, positive feature of the Ohio programs. Without this feature, marketers found they had little leverage to collect from certain customers. In Pennsylvania, Columbia does purchase supplier receivables; however, the discount appears to be very high compared to other programs – five percent. Dominion Peoples does not offer to purchase supplier receivables. Of course, the purchase of receivables by the utility must be done in a manner that does not increase rates for remaining default service customers or reduce consumer protections for affected ratepayers.

Another feature of the Ohio program that makes it more attractive than Pennsylvania is the size of the relative markets. Dominion East Ohio and Columbia Ohio each serve well over a million potential choice customers. Because suppliers have limited resources, promotional and advertising dollars are targeted towards larger markets. While no bright line test exists, this suggests that for some Pennsylvania NGDCs, there may simply not be enough customers in their individual service territories to generate supplier interest.

Suppliers also favored consistency between NGDC programs and noted that program fees discourage competition. With respect to program consistency and fees, the choice programs in Pennsylvania are similar to those in Ohio.

Suppliers noted other areas of the Pennsylvania program that they felt hindered their ability to participate in the market. Suppliers indicated that it is difficult for them to obtain the specific customer consumption information necessary to efficiently arrange for gas supplies to serve customers. In New York, authorized suppliers are able to obtain customer consumption history through the NGDCs' web sites (with customer consent). Such information is not as readily available for Pennsylvania customers.

IV. RECOMMENDATIONS

A. Introduction

With the exception of the unique Georgia Atlanta Gas Light program, which is discussed in Appendix A, Pennsylvania's natural gas customer choice programs have generally mirrored experiences in other states. Many states have struggled to get retail choice programs for smaller customers off the ground. The current regulatory structure, wherein unregulated suppliers compete with a natural gas distribution company that is charging only the passed-through cost of a least-cost gas supply, provides a limited opportunity for profit. The OCA submits, however, that the solution to this problem is not to artificially increase the prices charged by the regulated utility. That would leave most customers worse off than they would have been if there had been no restructuring of the natural gas industry at all. Where states have had some modest success with retail choice programs, there may have been incentives provided to encourage participation by customers and suppliers alike, some of which may have an adverse impact upon those customers who remained with the incumbent gas utility.

Furthermore, it is not clear that Pennsylvania could replicate those features of the retail choice programs, such as Ohio, which have been conducive to fostering retail choice activity. For example, marketers have found it easier to enter a larger market such as Columbia Ohio and Dominion East Ohio, both of whom have over one million retail customers. Pennsylvania gas utilities, by comparison, have much smaller customer bases. Pennsylvania utilities, for the most part, also lack available on-system storage that could be assigned to alternative suppliers. This was one feature of the Dominion East Ohio program that marketers found attractive.

The most significant impediment to the development of residential customer choice is the lack of marketing activity and the inability to offer savings. These factors are unlikely to change in the near term where wholesale natural gas prices remain very high and very volatile.

The level of shopping and relative lack of alternative suppliers marketing to residential customers suggests that a robust retail competitive market simply may not develop for most residential customers. The success of natural gas restructuring, however, should not be judged solely on the level of retail choice activity that is occurring. There were other benefits delivered by the Act, including elimination of the gross receipts tax on all natural gas service, the development or expansion of universal service programs in all NGDC service territories, and the modification of the 1307(f) process to allow greater use of financial instruments and natural gas price risk management tools to assist NGDCs in reducing gas cost volatility to provide more stability in purchased gas cost rates.

The OCA submits that the Commission should not make changes to the customer choice programs simply for the purpose of increasing the level of retail choice activity. Many customers have already made a choice, and that choice is to stay with their incumbent natural gas utility. The customer choice program should not be redesigned in a way that imposes additional costs on customers or that increases NGDC rate volatility to the point that customers are forced to switch to alternative suppliers.

B. Recommendations

1. The Commission Should Not Undertake Any Changes To Customer Choice Programs That Would Result In Increased Costs For Customers Who Choose To Remain With Their NGDC Or That Would Reduce System Reliability Or Quality Of Service.

One of the choices that customers were given by the Act was the choice to remain as a sales service customer of their NGDC. Therefore, the Commission should ensure that these customers are not harmed by any actions taken to promote retail choice activity. The goal of this investigation should be to ensure that consumers are provided with the opportunity to receive reliable natural gas service at the lowest reasonable cost. Since most Pennsylvania natural gas customers are purchasing their natural gas supply from their NGDC, it is essential that care is taken not to increase costs for that supply. Existing program features, such as mandatory *pro rata* assignment of capacity may make it more difficult for marketers to serve residential customers, but they also help to reduce the potential for stranded costs. The OCA submits that with natural gas costs at near-historic highs, this is not an appropriate time to saddle ratepayers with additional costs.

The current program designs also reflect the General Assembly's intent that the NGDC must act as supplier of last resort in the case of supplier default. Therefore, capacity that is assigned to an NGS is recallable if the NGS fails to deliver the requisite supplies and choice customers are returned to the NGDC. This feature ensures that all customers – both choice customers and sales customers – are receiving safe, reliable and adequate service without any duplication of natural gas supplies or stranded cost. The Act specifically requires the Commission to adopt and enforce standards to ensure the continuation of the safety and reliability of the natural gas supply and distribution service for all retail customers. 66 Pa.C.S.

§2203(1). The OCA submits that the Commission should not approve any program design modifications that would reduce the level of reliability.

Similarly, the purchase of receivables may be viewed by marketers as a positive aspect of a choice program. However, such a provision should only be implemented under reasonable terms and conditions that do not cause the NGDC to incur additional costs that would have to be passed on to ratepayers and that do not reduce consumer protections for affected ratepayers.

2. NGDCs Should Be Encouraged To Continue To Develop Purchasing Strategies To Minimize The Volatility In Purchased Gas Costs, Consistent With The NGDC's Least Cost Gas Obligation.

Since most natural gas customers in Pennsylvania remain SOLR customers of the NGDC, either through affirmative choice or as a result of a lack of competitive options, it is essential that NGDCs continue to fulfill their role as SOLR by providing safe, reliable, reasonably-priced service at the least cost possible. By statute, NGDCs' natural gas supply costs must be consistent with a "least cost fuel procurement policy." 66 Pa.C.S. §1318. When the Natural Gas Choice Act was passed in 1999, the Public Utility Code's definition of recoverable "natural gas costs" was modified to include "futures, options and other risk management tools." 66 Pa.C.S. §1307(h). This expresses the clear intent of the General Assembly that NGDCs should be able to engage in natural gas price risk management activities in order to reduce the volatility in purchased gas costs. The OCA submits that a well-designed gas procurement program, that includes a portfolio of fixed-price purchases, indexed purchases and financial risk management tools can help to stabilize an NGDC's purchased gas cost rate. Less volatile rates will make it easier for consumers to plan their household budgets from month-to-month and lead to improved collections for the utility.

Further statutory authority for implementation of hedging strategies and gas cost risk management programs is found in other parts of Chapter 13 of the Public Utility Code. In approving natural gas supply costs, the Commission must determine whether the utility "is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable service to its customers." 66 Pa.C.S. §1318(a). One of the Commission's tasks during the annual review of purchased gas costs is to examine the utility's Reliability Plan and Supply Plan that is submitted as part of the 1307(f) filing. 66 Pa.C.S. §1317(c).

Specific findings required to be made under Section 1318 of the Public Utility Code include that the utility has taken all "prudent steps necessary to negotiate favorable gas supply contracts" and taken "all prudent steps necessary to obtain lower cost gas supplies on both short-term ***and long-term*** bases both within and outside the Commonwealth." These statutory directives indicate that an NGDC should not rely simply on short-term wholesale market purchases to serve its customers, but should also be seeking to take longer-term positions to guard against excess price volatility. The OCA supports the efforts of NGDCs to engage in hedging activities and the development of natural gas price risk management plans that will minimize volatility in purchased gas cost rates and provide more stability to customers' bills. The Commission should encourage utilities to engage in such activities, especially during this period of extreme volatility in the wholesale gas markets.

Finally, the Act prohibits the development of a month-to-month price change unless the NGDC also offers a 12-month fixed rate option. At this time, the OCA does not support any change in this statutory directive. The OCA is concerned that in times of volatile gas costs, monthly changes to purchased gas cost rates would leave customers even more unable to budget household expenses since they would not know what gas prices are from one month to the next.

V. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to present these Comments to the Commission as it considers the future of the natural gas retail choice program in Pennsylvania. The OCA looks forward to working with the Commission and other stakeholders on these important issues.

APPENDIX A

SUMMARY OF RETAIL CHOICE PROGRAMS IN OTHER JURISDICTIONS[1]

1. New York

The New York Public Service Commission ("NY PSC") has strongly supported the move to retail natural gas competition and instituted retail choice programs in the service territories of each natural gas distribution company. New York has not adopted comprehensive gas restructuring or retail competition legislation, but has adopted a statewide set of consumer protection policies that are applicable to both electric and natural gas marketers licensed by the Commission. Pursuant to the NY PSC's Gas Policy Statement issued in 1998 (and amended in 1999)[2] gas utilities are required to unbundle their rates and limit their acquisition of new capacity contracts, shifting to short-term and citygate arrangements for capacity necessary for system operation and reliability. While the NY PSC initially anticipated that the natural gas distribution utilities would exit the merchant function within a relatively short time, this has not occurred.

As of May 2004, 13.7% of residential customers were served by an alternative gas supplier – which represents a 2.1% participation rate decrease in the last 12 months. Another

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[1] The OCA was assisted in the preparation of this Appendix by Consumer Affairs Consultant Barbara Alexander and Natural Gas Industry Consultant Jerome Mierzwa. Both of these consultants are familiar to the Commission, having testified on behalf of the OCA in numerous proceedings involving restructuring and natural gas issues. The data and information cited in Appendix A has been gathered by Ms. Alexander and Mr. Mierzwa as a result of their examination of the retail choice programs in other jurisdictions that they have done as part of this investigation as well as work performed on behalf of other clients. The data and information reported here was gathered by Ms. Alexander and Mr. Mierzwa from available public sources and through informal discussions with participants in the retail choice programs in other jurisdictions, including natural gas distribution company personnel, natural gas marketer personnel and regulators.

[2] New York PSC, Policy Statement Concerning the future of the Natural Gas Industry in New York State and Order Terminating Capacity Assignment, Case 97-G-1380, November 3, 1998. The Commission clarified some aspects of this order in April 1999.

significant decrease in shopping levels occurred in early 2003.[3] The degree of residential customer shopping varies significantly among the various natural gas distribution companies, with the largest numbers reported for Keyspan Energy Delivery of New York and Niagara Mohawk Power Co. Most gas distribution utilities in New York are governed by multi-year performance plans that address the distribution and, in some case, the gas supply portion of customer bills. Each of these plans contains a Service Quality or Customer Service performance mechanism with established baseline performance standards and automatic penalties (in the form of reduced earnings) for the failure to achieve the minimum standards during the term of the plan and a company-specific low-income bill payment assistance program funded through distribution rates.

For example, National Fuel Gas Distribution Corp. ("NFGD-NY"), an upstate utility, operates under a multi-year rate plan that the Commission recently extended until December 2004.[4] As of May 2004, 41,300 residential customers were served by alternative suppliers in NFGD-NY's retail choice program.

The New York and Pennsylvania programs differ in two significant respects. First, in the New York program there is a mandatory release of capacity unless the supplier can demonstrate they have comparable capacity during the five winter months. Second, each New York natural gas distribution company operates under individually negotiated "backout credits." In New York, backout credits are provided as a discount to the distribution charges of a choice customer. This provides customers with an incentive to switch to an alternative supplier. The

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3 The New York PSC publishes Gas Retail Access Migration statistics on its website: http://www.dps.state.ny.us/Gas_Migration.htm

4 New York PSC, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corp., Case No. 00-G-1858, September 18, 2003., available at: http://www.dps.state.ny.us

amount of the credit is intended to reflect the average cost savings – in administrative and general expense, cash working capital and other expenses – experienced by a natural gas distribution company when a customer switches. It is uncertain whether the natural gas distribution company cost savings are greater than the additional costs associated with administration of the choice program. It was thought that this payment of a backout credit would enable a marketer to more effectively compete in the customer choice program. In New York, the backout credit approach was established after the programs were initially in place, but has not resulted in any significant increase in participation levels.

In New York, alternative suppliers can access customer consumption data through the Company's web site if they have the customer's account number. This system assumes that the supplier has the customer's account number by means of a customer consent process. However, the supplier's access to any other individual account information, such as payment history, requires specific customer consent for that purpose that is transmitted to the NGDC.

There is no migration rider in New York so that under/over collections do not follow customers who shop and then return to the incumbent utility. This policy leaves open the possibility that marketers could game the system by soliciting new customers or returning customers to the natural gas distribution company at certain opportune times, depending upon the level of the utility's over/under-collection factor. Furthermore, such a policy also could result in pressure by alternative suppliers to oppose any effort by the natural gas distribution company to manage its gas portfolio to smooth price volatility since larger over- and under-collections present more opportunities for marketers.

Under the statewide minimum consumer protection rules adopted by the Legislature in 2002, suppliers can initiate disconnection of service for nonpayment of the competitive gas supply portion of the bill. However, such an option carries with it the obligation by the supplier to offer payment arrangements, honor medical emergencies, and generally duplicate the terms of service and obligation to serve of gas utilities. While it is not a requirement that the utility purchase the supplier's receivables, some utilities do so.

Access to capacity remains a significant issue under the New York programs. This is particularly the case in the New York City area where capacity is fully subscribed. In that situation, there is no incentive for the local natural gas distribution company to give up capacity, particularly when the supplier could then use such access to enter other markets.

A large concern for utilities is the risk that a supplier will file for bankruptcy, an event that has occurred in several upstate New York programs. Customers who prepaid the supplier or who had paid cash deposits lost not only the benefit of their contractual price, but the prepayments and deposits that the supplier had collected. Utilities are concerned that once a supplier files for bankruptcy, they cannot get back assigned capacity or gas that may be in storage unless the bankruptcy court specifically approves the transaction.

One of the most successful (but still very small) New York programs is that of Orange and Rockland ("O&R"). In that program, O&R purchases the supplier's receivables and promotes competitive choices when the customer contacts the utility's phone center for any purpose. Switching customers are guaranteed savings of seven percent for the first two months, but the savings are not guaranteed beyond two months. The customer's natural gas supply charges then reflect the marketers' contract offer for the balance of the contract period. O&R is provided an incentive to promote customer switching through an incentive program that provides it with an increased return on equity if it is able to achieve a certain customer choice participation levels.

2. Ohio

Ohio has adopted a statewide retail choice program for natural gas service and aggressively pursued it. Initiated in the late 1990's, these programs have expanded in two of the four investor-owned gas utilities. Customer migration rates and supplier marketing activity is fairly robust in the Columbia Gas of Ohio ("Columbia Ohio")[5] and Dominion East Ohio Gas ("Dominion East Ohio") programs. While the pace of migration of customers to the choice program has slowed over the past year, 52% of Dominion East Ohio's residential customers and 39% of Columbia Ohio's residential customers are currently served by an alternative supplier. Other gas utilities have lower participation rates: Vectren – 23.8%; Cincinnati Gas and Electric – 7.9%.[6] This relatively high shopping level may increase since the Ohio Legislature has adopted a municipal aggregation program for natural gas that is similar to that in place for the Ohio retail electric competition program.

By way of background, the choice programs of both Dominion East Ohio and Columbia Ohio share certain common features. Neither program includes mandatory capacity assignment provisions. Both utilities require daily deliveries by suppliers based on the estimated requirements of their customers as determined by the distribution utility. Both programs provide for the purchase of alternative suppliers' receivables. However, the Public Utilities Commission of Ohio ("PUCO") permits the recovery of these costs by the natural gas distribution companies through an uncollectibles tracking mechanism.

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[5] The Public Utilities Commission of Ohio publishes "apples to apples" price comparison charts for each gas utility and updates these charts monthly. The July 2004 Apples to Apples chart for Columbia Ohio indicates 8 marketers offering a variety of fixed and variable rate plans for residential customers: http://www.puco.ohio.gov/Puco/ApplesToApples/NaturalGas.cfm?doc_id=479

[6] The Public Utilities Commission of Ohio publishes Customer Enrollment Levels for Natural Gas customer choice programs: http://www.puco.ohio.gov/Puco/StatisticalReports/Report.cfm?doc_id=1176

In the Columbia Ohio program, the utility elected to maintain pipeline capacity sufficient to serve all of its sales and choice customers. Thus, stranded costs were incurred as customers migrated to choice. These stranded costs are recovered from all sales and choice customers. Certain features of the stranded cost recovery mechanism resulted in an increase in the gas cost rates for remaining sales customers, thus enabling alternative suppliers to compete more easily. There were a number of other unique features of the Columbia Ohio program, established through a number of stipulations, which render difficult to pursue as a model. For example, stranded costs were partially offset by the crediting of certain FERC Order 636 transition costs and by significant interstate pipeline refunds. In Pennsylvania, Order 636 transition costs have been completely collected by Pennsylvania NGDCs, and no significant pipeline refunds are anticipated in the near future. Therefore, such an approach would not be available in Pennsylvania.

In the Dominion East Ohio program, the utility did not maintain pipeline capacity to serve choice customers. It maintained capacity sufficient to serve only sales customers (plus certain transportation customer balancing requirements). Dominion East Ohio has been able to adjust its pipeline capacity entitlements to essentially eliminate stranded costs. To maintain system reliability, Dominion East Ohio requires alternative suppliers to demonstrate that they have reserved capacity comparable to that reserved by Dominion East Ohio for the five winter months. System reliability is also maintained by the structure of the program. Alternative suppliers are assigned or allocated on-system and pipeline storage sufficient to meet 50 percent of their customers' design peak day demands. This storage reverts back to Dominion East Ohio if a supplier defaults. Thus, one-half of the reliability risk of supplier default is eliminated. On-system storage represents 34 of the 50 percent assigned to alternative suppliers, and is a key factor in Dominion East Ohio's ability to operate its choice program. Most Pennsylvania NGDCs, however, do not have on-system storage.

Initially, retail choice customers in Ohio enjoyed savings. These savings were largely attributable to the fact that customers executed fixed price contracts prior to a period of unprecedented gas price increases. The most recent data available (June 2004) shows that during the term of Dominion East Ohio's choice program, which was initiated in 1997 as a pilot program and expanded system wide in 2000, customer net savings have totaled $13 million. The OCA does not have recent dollar estimates for the Columbia Ohio program.

The unprecedented recent increases and volatility in gas prices have had a significant impact on competitive supplier offerings in Ohio, and elsewhere. Prior to the price increases and volatility, marketers routinely offered fixed price arrangements that were competitive with the gas distribution utility's offering. Now fixed price offerings are rare, and those that are available are at prices well in excess of the utility's price. These offerings can be compared on the PUCO's web site. It is uncertain at this time whether this significant change in supplier offerings in Ohio will affect participation levels.

In summary, with the exception of Georgia, which mandated that the natural gas distribution company exit the merchant function, Ohio has the highest customer choice participation rates in the country. The OCA's review of the two largest retail choice programs in Ohio – Columbia Ohio and Dominion East Ohio – reveals several features that marketers have found attractive and may have helped to increase choice participation rates. These features include the lack of mandatory capacity assignment with, instead, a requirement that the marketer utilize comparable capacity to serve choice customers during the five winter months. In addition, the large size of the markets served by Ohio natural gas distribution companies, several larger than one million potential customers, allows marketers to make more efficient use of their advertising and marketing budgets. The purchase of receivables by the natural gas distribution company was another feature that some marketers cited as favorable. Also contributing to the initial success of the choice programs in Ohio was the initial savings that choice customers realized when they switched to fixed price contracts during the run-up in natural gas costs that occurred in 2002-2003. With fewer and fewer marketers willing to offer fixed price contracts without a large premium, however, those types of savings are no longer achievable.

3. Illinois

Illinois has not adopted comprehensive retail gas competition legislation, but the Commission has approved a variety of pilot programs for residential customers. According to a July 2004 report issued by the Illinois Commerce Commission,[7] two natural gas utilities operate approved retail access programs for smaller customers: Nicor Gas and Peoples Gas Light ("PGL"). Participation limits exist for both utility programs, but Nicor's program was expanded to permit choice for all of its two million customers as of March 1, 2002. A total of 152,000 residential customers and 57,000 small commercial customers were served by alternative suppliers in these programs as of December 2003. While residential customer participation increased by over 40% in Nicor's service territory in 2003, participation in the PGL's program dropped by over 20%. In part this was due to the exit from the market by Nicor Energy in early 2003, a major supplier in both pilot programs, and the change in the state tax law that eliminated the tax advantage associated with sales by non-utility suppliers. The Illinois Commission's Report points to the smaller service territory, the imposition of a switching fee, and the

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[7] ICC, Annual Report on the Development of Natural Gas Markets in Illinois, July 2004, available at http://www.icc.state.il.us/ng/docs/040708garpt.pdf

participation limits of the PGL program as potential barriers to more extensive participation by alternative suppliers.

In 2003 the Illinois Legislature adopted the Alternative Gas Supplier Law, and pursuant to that statute, the Commission adopted rules[8] and now certifies all gas suppliers who seek to provide service to residential and small commercial customers. Currently, ten suppliers are licensed for the two utility gas choice programs. These regulations require suppliers that market to residential and small commercial customers to post a security bond in the amount of $150,000 and require the marketer to certify that "it will offer to reimburse its Illinois residential and small commercial customers for the additional costs those customers incur to acquire natural gas as a result of the applicant's failure to comply with a contractual obligation to supply such energy." 83 Ill.Adm.Code §551.80. The amount of this obligation must be contained in an unconditional guarantee or payment bond in an amount not less than the amount of gas the marketer expects to schedule over the next 12 months times the 12-month average citygate gas price.

The Illinois programs have also been marked by allegations of marketing abuse and violation of consumer protection laws. The Illinois Citizens Utility Board ("CUB") has filed a class action lawsuit against Nicor Solutions' "fixed bill" program,[9] alleging that it is deceptive because it promises the customer a fixed bill even if gas prices go up, but the resulting price is set at such a high level that most customers lose money compared to actual utility prices. The price that the customer will be charged under the "fixed bill" program is not stated in its

8 Illinois Administrative Code, Title 83, Part 551, effective January 1, 2004, contains consumer protection requirements as well as licensing requirements.

9 Nicor Solutions uses the same logo as the natural gas utility, Nicor Gas, and sends out its promotional materials in the Nicor Gas bill.

literature, but is customer-specific and reflective of the day the customer signs up for the program.[10]

The largest marketer in the PGL program is Peoples Energy Services. This marketer was also sued by CUB and recently fined $40,000 by the Commission for misleading advertising.[11] While appearing to offer a locked-in or fixed price for natural gas, the terms of the contract actually allowed the gas supplier to raise its rates based on market conditions and the quoted cents per therm did not reflect other recurring monthly fees (such as a monthly fixed charge and a "balancing" charge). Furthermore, the contract imposed an early termination fee of several hundred dollars if a customer attempted to leave the marketer and return to the utility. The Illinois Commission is now examining the sales practices of other gas marketers.

4. Georgia

Georgia has taken the most drastic approach of any state in its move to retail competition for natural gas service. This market model has not been adopted in any state for either electric or natural competition.[12] First, under the Georgia approach, all customers had to choose an alternative natural gas supplier and those who did not choose were assigned to an alternative supplier. Second, Atlanta Gas Light, the distribution utility was completely removed from any retail relationships and has no retail obligation to serve. Rather, customers are billed directly by the marketer for both unregulated natural gas commodity charges and regulated distribution charges. Third, Georgia's natural gas marketers can disconnect service for

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10 Article may be found at
http://www.lexis.com/research/retrieve/frames?_m=bfcb4a13804bc970b4af18f7c4050627&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAz&_md5=a582a2e75481fa08ffbc11d23ea6d994

11 http://citizensutilityboard.org/pdfs/NewsReleases/20040721_GasMarketers.pdf

12 While the Texas electric competition model requires the retail energy provider to assume full billing and collection responsibility with their customers, there is a "default provider" that is obligated to serve customers under the Price to Beat rates for a transition period.

nonpayment of any portion of the bill, thus preventing the customer from obtaining natural gas service from any default provider or competitive supplier until the bill is paid or the marketer has agreed to payment terms. Fourth, the market model did not originally contemplate or provide for any "provider of last resort," but such a service was adopted as part of the 2002 reforms mandated by the Legislature. The Georgia program has faced significant controversy, customer complaints, and substantial intervention and reform by the state Legislature.

Retail competition for natural gas suppliers and customers at Atlanta Gas Light (AGL), the state's largest investor-owned natural gas utility, began November 1, 1998 under the 1997 Natural Gas Competition and Deregulation Act.[13] The Act and the Georgia Public Service Commission ("Georgia PSC") implemented a competition model (sometimes referred to as the Single Retailer Model) in which the retail customer receives natural gas service and bills from the gas marketer and has no interaction with the local distribution utility. The Act required that when certain market conditions were met, all customers who had not yet chosen a competitive supplier would be assigned to a competitive supplier based on the market share obtained by the suppliers in the first several years of the program. In late 1998 and early 1999 there was not much activity by customers to choose a natural gas supplier. Customers were then told in early 1999 that there was a deadline for choosing a marketer or they would be assigned to a marketer. As a result of this approach, many customers signed up for competitive providers by the fall of 1999. That left only 280,000 customers that had to be assigned a marketer because 1.1 million had already chosen a marketer.

This astounding migration during the first year of the program was due in part to the massive marketing campaigns by various marketers (coupled by upfront prizes and give-aways, such as the $50 promised by SCANA, and a free month of natural gas by Peachtree) and

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13 http://www.psc.state.ga.us/gas/sb215.htm

in part due to the controversy and outrage expressed by customers against Atlanta Gas Light (the distribution utility) who had recently initiated a new rate design approach for charging for natural gas distribution service that shifted cost recovery to low users. By the fall of 1999, AGL was completely removed from the retail natural gas business and every retail customer had chosen or been assigned to a competitive marketer.

At the time of the most intense marketer activity during 1999 there were 24 licensed suppliers seeking retail customers. This high point has subsequently declined. By January 2004, the number of marketers actively seeking customers had fallen to nine.

In spite of the relatively large number of active marketers in the Georgia retail market, it appears that the bulk of customers were being served by only a few marketers. A study conducted by Ken Costello of the National Regulatory Research Institute on behalf of the Georgia PSC in 2002 found that four marketers served nearly 90 percent of the natural gas market in Georgia.[14] The study characterized the Georgia market as highly concentrated where conditions are conducive to the exercise of market power and found that the Georgia market has features that may be conducive to behavior by marketers that lie contrary to consumer interests.

The Georgia Public Service Commission ("Georgia PSC") received 15,281 complaints against marketers in the late 1999 and early 2000 period: 2,039 about billing, 179 about service, and 13,063 alleging deceptive marketing, primarily slamming. According to the Georgia PSC's Consumer Affairs office, natural gas complaints went from a pre-deregulation low of 208 for the first six months of 1998, to a post-deregulation high of 8,596 for the first six months of 2001, a 40-fold increase in customer complaints.[15]

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14 The competitiveness of the Georgia Deregulated Gas Market; Ken Costello, Senior Institute Economist; the National Regulatory Research Institute; January 2002

15 Interview with Phil Nowicki, Georgia PSC, November 28, 2001.

The Commission initially licensed natural gas suppliers without any investigation into their ability to conduct large scale billing and customer service programs and did not obtain security bonds or other financial security as a hedge against marketer failure or loss of customer deposits and prepayments. Nor did the Commission establish basic contractual disclosure requirements until late in 2002 and, as a result, marketers were not required to inform new customers in writing of the material terms of their agreement or provide a copy of any contractual agreement. The Commission has not regulated the deposit and credit practices of marketers, although there appears to be an unwritten rule that marketers have an "obligation to serve" in that they cannot deny an individual natural gas service, but can, based on unregulated credit evaluation criteria, demand a deposit.

Most importantly, the natural gas marketers can disconnect service for nonpayment of the bill. The marketer must issue a notice and only AGL can actually physically disconnect (and reconnect) the service. The disconnection activity was very slow in the early days of this program due to the massive billing failures and billing errors. Once marketers began to more routinely issue timely bills in early 2001, the pace of disconnections increased markedly. This occurred at the same time that customers were seeing the true effect of the large bills from the winter of 2000-2001, one of the coldest on record in the Atlanta area. The impact of the cold weather on those customers who had entered into variable rate contracts exacerbated the higher prices reflected on their bills due to increased usage. The Commission halted disconnection of service in the winter of 2000-2001, but when the moratorium was lifted in April, record numbers of disconnections occurred. As a result, over 125,000 disconnections occurred in the summer and fall of 2001, and as of the end of November approximately 50,000 residential customers remained disconnected.[16]

While only AGL can physically disconnect a customer, the prior AGL practice of attempting to contact the customer at the premises and potentially negotiating a payment plan or accepting payment has ended. AGL field personnel act as merely agents of the marketers, none of whom are required to contact the customer and seek to avoid disconnection of service. Furthermore, once disconnected, only AGL can reconnect the customer and the backlog of those disconnected in early 2002 was estimated to take eight weeks to resolve given the available AGL resources devoted to this task.

In the fall of 2001, in the face of mounting criticism and public complaints about the natural gas program, Governor Roy Barnes announced the formation of a Natural Gas Consumer Protection Task Force and stated that he is "strongly persuaded that the state needs to take steps to protect the individual consumer of natural gas." He cited the high prices currently charged by natural gas marketers and the record number of disconnections that had occurred. At the time that the Task Force made its final recommendations to the Governor in January 2002, the Governor proposed legislation to correct some of the defects in the natural gas program identified by the Task Force. During the following legislative session, an attempt to "re-regulate" natural gas was defeated. However a significant package of reforms was adopted in the Natural Gas Consumers' Relief Act (HB 1568). The final version of the legislation adopted a "Consumer Bill of Rights" and a mandatory requirement that the Commission appoint a Provider of Last Resort. The Consumer Bill of Rights and the resulting PSC regulations have resulted in

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16 Quinn, "Funding Elusive for Natural Gas Safety Net," The Atlanta Journal-Constitution, November 21, 2001. Note: The Georgia PSC obtains monthly reports on disconnection activity from AGL, but does not publish this information on a regular basis.

enhanced regulation of marketer billing and contract procedures. The legislation also requires the Commission to supervise the quality of service provided by Atlanta Gas Light to the marketers in the form of timely meter readings and switching procedures.

These consumer protection reforms adopted in 2002 have had an impact on customer complaints. In contrast to the high complaint ratios of over 1,000 per month in late 2000 and 2001, the PSC Gas Marketer Scorecard reflects a reduction in complaints during 2003 and 2004 to date, now averaging 150-200/month. However, billing complaints are still the largest complaint category.

The statutorily mandated Provider of Last Resort program requires the chosen marketer (selected by a bidding process) to serve two groups of customers: consumers who meet the definition of low income as established by the Georgia Department of Human Resources (Group 1) and consumers who are unable to obtain service from another marketer and do not meet the criteria for low income (Group 2). Under the rates approved by the Commission for the marketer selected in June 2002 (SCANA)[17], low income customers will pay about $0.22 per therm <u>over</u> the wholesale price of natural gas with a $4.95 monthly charge, low income seniors (not required by the legislation, but offered by the winning bidder) will pay $0.20 over wholesale and a $4.95 monthly charge, and other high risk customers (those unable to obtain service from another marketer, but who are not certified as low income) will pay $0.36 over wholesale with a $11.95 monthly charge. Pursuant to the provisions of the new legislation, the Universal Service Fund (collected from all market participants) will support the POLR's uncollectible expenses associated with this service for at least the low income customers.

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17 Georgia PSC selects SCANA to Be the Regulated Natural Gas Provider Established by the Natural Gas Consumers' Relief Act (HB 1568) and Takes Other Actions, June 18, 2002, available at www.psc.state.ga.us .

CERTIFICATE OF SERVICE

Investigation into Competition in the Natural Gas Supply Market	:	Docket No. I-00040103

I hereby certify that I have this day served a true copy of the foregoing Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 27th day of August 2004.

SERVICE BY INTEROFFICE MAIL

Robert J. Bennett
Manager
Bureau of Fixed Utility Service
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Johnnie Simms, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Patricia Krise Burket
Assistant Counsel
Bureau of Fixed Utility Service
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

SERVICE BY FIRST CLASS MAIL

Daniel Regan
Energy Association of Pennsylvania
800 N. Third Street
2nd Floor
Harrisburg, PA 17102

William J. Lloyd, Esquire
Office of Small Business Advocate
Commerce Building - Suite 1102
300 North 2nd Street
Harrisburg, PA 17101

David M. Kleppinger, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108

Kent D. Murphy, Esquire
PECO Energy Company
2301 Market Street S23-1
P.O. Box 8699
Philadelphia, PA 19101

Robert Hovanec, VP & CEO
T.W. Phillips Gas & Oil Co.
205 North Main Street
Butler, PA 16001

Eric Meinl
National Fuel Gas Distribution Corp
10 Lafayette Square
Buffalo, NY 14203

Daniel L. Frutchey, Esquire
Senior Vice President
Equitable Gas Company
200 Allegheny Center Mall
Pittsburgh, PA 15212-5352

Mark Kempic, Esq.
Columbia Gas of Pennsylvania, Inc.
650 Washington Road
Pittsuburgh, PA 15228

Susan G. George, Esq.
Peoples Natural Gas Company
625 Liberty Avenue
Pittsburgh, PA 15222

Vicki O. Ebner
Vice President Marketing & Gas Supply
UGI Utilities, Inc - Gas Division
100 Kachel Blvd
Suite 400; P.O. Box 12677
Reading, PA 19612

William H. Eckert
Director of Gas Supply
PG Energy
1 PEI Center
Wilkes Barre, PA 18711-0601

Paul E. Russell
Associate General Counsel
PPL Electric Utilities Corporation
Two North Ninth Street
Allentown, PA 18101-1179

Gregory J. Stunder, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122

Stephen J. Keene
Senior Assistant Consumer Advocate
Aron J. Beatty
Lori A. Herman
Christy A. Appleby
Assistant Consumer Advocates

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

COMMONWEALTH OF PENNSYLVANIA

OFFICE OF SMALL BUSINESS ADVOCATE
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

ORIGINAL

August 27, 2004

HAND DELIVERED

DOCUMENT FOLDER

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

I am delivering for filing today the original and ten copies of the Testimony on behalf of the Office of Small Business Advocate, in the above-captioned matter. Also enclosed is a diskette containing an electronic version of the Testimony.

If you have any questions, please contact me.

Sincerely,

William R. Lloyd, Jr.

William R. Lloyd, Jr.
Small Business Advocate

Enclosure
cc: Robert Bennett
Bureau of Fixed Utility Services

Patricia Krise Burket, Esquire
Law Bureau

Irwin A. Popowsky
Consumer Advocate

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COMMONWEALTH OF PENNSYLVANIA

ORIGINAL

OFFICE OF SMALL BUSINESS ADVOCATE
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

Testimony on Behalf of the
Office of Small Business Advocate
In the Gas Competition Investigation
At Docket No. I-00040103

INTRODUCTION

Through the act of June 22, 1999 (P.L. 122, No. 21), known as the "Natural Gas Choice and Competition Act" ("Gas Choice Act"), 66 Pa. C.S. §2201 et seq., the General Assembly extended to all customers the same right to shop for natural gas which large volume customers had enjoyed since 1983.

Section 2204(g) of 66 Pa. C.S. provides that within five years of the Gas Choice Act's effective date (July 1, 1999), the Pennsylvania Public Utility Commission ("Commission") "shall initiate an investigation or other appropriate proceeding ... to determine whether effective competition for natural gas supply services exists on the natural gas distribution companies' systems ...." If the Commission concludes that "effective competition" does not exist, Section 2204(g) requires the Commission to reconvene "the stakeholders in the natural gas industry in this Commonwealth to explore avenues, including legislative, for encouraging increased competition ...." The Act does not define "effective competition" or otherwise specify a procedure for measuring it.

By Order entered May 28, 2004 ("Order"), the Commission initiated the investigation mandated by Section 2204(g). By that Order, at ¶ 3, the Commission set August 27, 2004, as the deadline for submitting written testimony. The Office of Small Business Advocate ("OSBA") hereby submits this written testimony in accordance with the Commission's Order.

SPECIFIC ISSUES

1. "UGLY" SOLR rates are not permitted.

Section 2207(a)(1) of 66 Pa. C.S. designates each natural gas distribution company ("NGDC") as the supplier of last resort ("SOLR") for residential, small commercial and industrial, and essential human needs customers, unless and until the Commission approves a natural gas supplier ("NGS") to be the SOLR. Under Section 2207(a)(2), the SOLR is required to provide natural gas to customers who do not choose an alternative supplier, who are refused service by an alternative supplier, or whose alternative supplier fails to deliver.

The investigation into whether "effective competition" exists in the natural gas industry differs from the Commission's proceeding to determine the provider of last resort ("POLR") obligation under the act of December 3, 1996 (P.L. 802, No. 138), known as the "Electricity Generation Customer Choice and Competition Act," 66 Pa. C.S. §2801 et seq. In the Commission's POLR Roundtable, some electric generation suppliers ("EGSs") argued (incorrectly) that POLR prices should be as "ugly as possible" in order to drive customers to select service from an EGS over service from an electric distribution company ("EDC"). The argument for "ugly" electric POLR rates rests on selective citation from the declaration of policy in 66 Pa. C.S. §2802 and from the requirement in 66 Pa. C.S. §2807(e)(3) that the POLR "shall acquire electric energy at prevailing market prices" and "shall recover fully all reasonable costs."

There is no basis for a similar argument regarding gas SOLR rates.

Nothing in the Gas Choice Act exempts an NGDC from review of its natural gas costs under 66 Pa. C.S. §1307(f), of its least cost procurement policy under 66 Pa. C.S. §1317, and of the justness and reasonableness of its rates under 66 Pa. C.S. §1318. Furthermore, if the Commission were to approve an alternative SOLR, 66 Pa. C.S. §2207(f) would require that SOLR to charge "just and reasonable" rates. Therefore, artificially inflating SOLR rates to make it easier for NGSs to compete with an NGDC or an alternative SOLR is not an option under the Gas Choice Act.

An NGDC has the advantage of being a bulk purchaser when it contracts for natural gas and for the transportation and storage of that gas. If the Commission is adequately enforcing the least cost procurement requirement and is correctly determining the justness and reasonableness of gas cost rates, it would be surprising if NGSs were able to beat an NGDC's rates for most customers.

The percent of gas purchased by customers from competitive suppliers had risen to about 50 by 1999 (the year in which the Gas Choice Act became law). For the next several years, the percent held steady at about 50, but it declined to the mid-40s in 2002. See Keystone Competition, Spring 2004, at 10. However, because the General Assembly chose to keep the NGDC's rates subject to Sections 1307(f), 1317, and 1318, whether there is "effective competition" can not be determined simply by counting the number of customers who are shopping or by measuring the percentage of gas sold by NGSs. Instead, the determination must rest on whether there are unjustifiable barriers which impede a customer from purchasing from an NGS if that is what the customer chooses to do.

2. **Penalties for non-delivery should be reexamined.**

Under 66 Pa. C.S. §2203(12), the Commission is required to "adopt such orders or regulations as necessary and appropriate to ensure that natural gas suppliers meet their supply and reliability obligations, including, but not limited to, establishing penalties for failure to deliver natural gas and revoking licenses." (emphasis added)

As required by Section 2203(12), the Commission has established penalties which an NGS must pay when it fails to deliver the required quantity of natural gas. Those penalties generally include the application of a multiplier to a calculated cost of replacement gas which may far exceed the amount the NGDC actually paid. The penalties vary from NGDC to NGDC.

An NGS's failure to deliver may result from circumstances beyond the NGS's control. However, a failure to deliver may also result from a flaw in the NGS's business model, negligence, or intentional misconduct. The volatility of natural gas prices and unanticipated changes in the weather can disrupt an NGS's good faith effort to deliver on its supply commitments. Unfortunately, those same factors can also tempt an NGS to "game" the system by meeting its supply commitments to customers in some parts of the country but not in others. Consequently, having a penalty regime in place is a reasonable and necessary tool for assuring an NGC's performance and for offsetting costs incurred by the SOLR when an NGS defaults. Because gas trading is exceptionally complex, it is reasonable for the Commission to have simple rules for calculating and imposing penalties without having to make evidentiary findings regarding the NGS's motives. Nevertheless, levying the same penalties when there is suspicion of "gaming" as when there is no such suspicion could constitute an unreasonable barrier to entry, in that an NGS must build an excessive premium into its contract price.

Therefore, the OSBA recommends that the Commission consider establishing a two-tier penalty structure for non-delivery, with the higher penalty applicable only in the case of "gaming." For example, the Commission could establish two distinct price (i.e., penalty) multipliers which would be applicable to the NGDC's actual cost of replacement gas. The lower multiplier would apply when the failure to deliver is not the result of "gaming."[1]

To make doing business in Pennsylvania simpler and more attractive for NGSs, the OSBA also recommends that the Commission consider establishing uniform penalties to replace the patchwork of penalties which vary from NGDC to NGDC.

3. Mandatory capacity assignment has worked well in the Commonwealth.

The gas costs recovered via annual Section 1307(f) filings consist of both the commodity cost of gas and the capacity cost associated with pipeline contracts. While the former consists of variable (i.e., avoidable) costs, the latter category is fixed (i.e., unavoidable) during the life of a given contract. Importantly, 66 Pa. C.S. §2204(d) required that all NGSs serving priority customers take mandatory capacity assignment from the NGDC for a period of three years. Along with capacity assignment went a pro-rata share of capacity costs, which was recovered from the NGS's customers. The intent of the mandatory assignment provision was to insure that an NGDC's existing pipeline capacity costs did not become "stranded." The mandatory capacity assignment proviso worked as intended, allowing NGDCs to recover 100% of their contractual-related capacity costs from the total universe of priority customers, without shifting costs between sales and transportation customers.

[1]Alternatively, the same outcome could be obtained by applying a single price multiplier to two distinct replacement gas cost levels: a) the actual cost of replacement gas, or b) the cost the NGDC would have incurred had it purchased all replacement gas from its highest price source during the period. Again, the higher result would apply only in the case of "gaming."

While the Commonwealth has emerged successfully from the transition period, the Commission must insure that stranded capacity costs do not arise in the future. As long as the NGDC is the SOLR for priority customers, it will need to have sufficient pipeline capacity available to serve both sales and transportation customers. Such capacity must come from either: 1) the NGDC's own contracts, or 2) a combination of NGDC and NGS contracts (the latter being assignable to the NGDC if the NGS returns customers to SOLR service). Section 2204(e) allows NGSs to provide their own capacity as the NGDC's existing capacity contracts expire, but NGDCs have entered into new contracts of sufficient size to serve all priority customers, and NGSs have agreed to continue to take capacity assignment.[2] The end result of this arrangement is that NGSs compete on the commodity – rather than the capacity – portion of the price of natural gas. This approach to capacity has worked very well, allowing NGSs to serve a significant share of the gas market in the Commonwealth, without jeopardizing service reliability or creating stranded costs. The OSBA recommends that the Commission be wary of any proposal which would alter the existing capacity assignment paradigm.

4. The Commission should maintain shopping statistics.

The Office of Consumer Advocate ("OCA") has become the de facto official tabulator of shopping statistics for the electric and gas industries. Although OCA's statistics for electric shopping include the number of shopping customers and the associated kWh by residential, commercial, and industrial class, the OCA's statistics for gas shopping include only the residential class.

By its Order, at ¶ 5, the Commission directed the NGDCs and the NGSs to provide shopping statistics for each customer class from 1999 through 2004. This data should not only

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[2] The OSBA is not aware of any NGDC's relying on NGS-capacity to backstop priority customers.

assist in measuring how much competition there actually is, but could also assist in determining the effect, if any, which specific events and specific changes in regulatory policy have had on competition. Accordingly, the OSBA recommends that the Commission compile and report similar data on a going-forward basis.

CONCLUSION

Thank you for the opportunity to submit written testimony. The OSBA would be happy to participate in the en banc hearing scheduled for September 30, 2004.

August 27, 2004

UGI UTILITIES, INC.

UGI Utilities, Inc.
460 North Gulph Road
King of Prussia, PA 19406

Post Office Box 858
Valley Forge, PA 19482-0858

(610) 337-1000 Telephone
(610) 992-3259 Fax

August 27, 2004

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VIA EXPRESS MAIL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrsiburg, PA 17120

Re: Investigation into Competition in the Natural Gas Supply Market, Docket No. I-00040103

DOCUMENT FOLDER

Dear Secretary McNulty:

Enclosed for filing please find an original and ten copies of the response of UGI Utilities, Inc. – Gas Division to the Annex "A" questions posed in the Commission's Order in the above-captioned matter entered on May 28, 2004. Also enclosed is a diskette containing an electronic version of these responses.

Should you have any questions concerning this filing, please feel free to contact me.

Very truly yours,

Mark C. Morrow

Mark C. Morrow

Counsel for UGI Utilities, Inc. –
Gas Division

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

INVESTIGATION INTO COMPETITION :
IN THE NATURAL GAS SUPPLY :
MARKET : Docket No. I-00040103

RESPONSE OF UGI UTILITIES, INC. –
GAS DIVISION TO THE ANNEX "A"
QUESTIONS POSED BY THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKETED
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In accordance with paragraph 5 of the Commission's Order in the above-captioned matter entered on May 28, 2004, UGI Utilities, Inc. – Gas Division ("UGI") submits the following information:

(1) For each quarter of the years 1999 to 2004, provide the following:

(a) Number of natural gas suppliers operating on its distribution system;
(b) Number of residential, industrial and commercial customers purchasing gas from alternate suppliers;
(c) Volume of natural gas transported on its distribution system;
(d) Volume of natural gas transported for suppliers on its distribution system.
(e) Numbers of customer complaints/disputes regarding slamming or unauthorized change of supplier; changing a supplier; selecting a supplier; confusion regarding a bill on which charges appear for natural gas from an alternate supplier; error in billing for a supplier; and any other issue (sic) competition-related issue.

Response:

	(1A) Alternate Suppliers	(1B) # of Customers served by Alternate Supplier	(1C) Volume of Gas Transported through System (Dth)	(1D) Volume of Gas Transported by Suppliers (Dth)
Mar-99	29	1149	30,371,770	14,641,226
Jun-99	26	1162	15,170,192	11,068,767
Sep-99	26	1170	12,551,486	10,051,767
Dec-99	23	1193	23,062,673	12,880,671
Mar-00	21	1205	30,860,230	15,390,066
Jun-00	22	1199	15,970,301	11,478,497
Sep-00	22	1192	12,977,079	10,197,238
Dec-00	18	1191	26,013,576	13,022,144
Mar-01	18	1182	29,254,870	12,595,902
Jun-01	19	1177	13,702,238	9,452,270
Sep-01	18	1192	11,583,393	8,876,317
Dec-01	17	1206	20,343,319	11,281,982
Mar-02	17	2507	27,044,196	13,212,671
Jun-02	17	3115	14,436,301	10,148,389
Sep-02	18	3350	11,336,635	8,930,787
Dec-02	20	5759	24,981,911	12,666,280
Mar-03	20	6201	33,381,492	14,838,461
Jun-03	16	5919	15,728,687	10,457,752
Sep-03	16	5698	13,879,995	11,384,661
Dec-03	15	5025	24,546,470	13,583,889
Mar-04	14	4786	32,538,441	14,270,564
Jun-04	14	4759	16,103,476	11,580,263

1(e) – UGI has not handled any complaints or disputes from customers concerning NGS issues directly. UGI has provided information to the Commission's Bureau of Consumer Services ("BCS") in response to eight informal complaints filed directly with the BCS by customers of a NGS operating on UGI's system. Four of these cases involved general billing issues, and the remaining four involved complaints about a $75 cancellation fee imposed by the NGS.

(2) Provide the following information about security requirements that natural gas suppliers are required to maintain for licensure (66 Pa.C.S. §2208(c)(1)(i)):

(a) Security requirement as posted in the distribution company's initial supplier tariff.
(b) Each change that was made to this security requirement to date.

Response:

The financial security requirements for qualified natural gas suppliers serving choice customers (Rates RT, NT and CT) on UGI's system will be modified on or before September 7, 2004, as a result of Petition of Shipley Energy Company For Modification of Security Requirement, Docket No. P-00032054 (Opinion and Order entered July 9, 2004). UGI's currently effective financial security requirements for qualified natural gas suppliers were approved by an Order of the Commission at Docket No. R-00994786 (Order entered August 31, 2000), and became effective October 1, 2000. These provisions provide:

8. FINANCIAL SECURITY

8.1 Financial Security. A Choice Supplier shall provide financial security to ensure that Company and/or other Commission-approved Supplier of Last Resort is able to receive, without undue delay, funds or other forms of remuneration sufficient to meet the financial consequences of a Choice Supplier's failure to perform its natural gas supply delivery service obligations hereunder. Company may also use such forms of financial security to ensure the ability of a Choice Supplier to pay the penalties authorized by this Supplier Tariff.

8.2 Forms of Financial Security. Financial security shall be provided in a form that is acceptable to Company and/or other Commission-approved Supplier of Last Resort. Acceptable forms of financial security include, but are not limited to, performance bonds, letters of credit, guarantees, call options satisfying the requirements of Section 8.3 hereof or gas supply contract assignment provisions satisfying the requirements of Section 8.4 hereof. Company will not require a credit review if a

Choice Supplier has obtained a license to provide natural gas supply service to retail customers from the Commission within one (1) year.

8.3 Call Option. A Choice Supplier may meet some or all of its financial security obligations by providing to Company or paying the Company to procure a Call Option for a volume equal to the monthly Design Day Requirements of the Choice Supplier's customers served under Rate Schedules RT, NT and/or CT. Unless otherwise authorized by Company, this Call Option must have a strike price equal to or less than the Choice Supplier's contract price(s) with its customers served under Rate Schedules RT, NT and CT. The Call Option shall allow Choice Supplier or Company to call on a volume equal to the Choice Supplier's Design day Requirement on each and every day the Call Option is in place such that the exercise on any day does not preclude or impact the ability to exercise the option on a subsequent day. Call Options shall be subject to the following rules:

a. If procured by the Choice Supplier, the Call Option must enable Company to exercise the Call Option in the event of non-performance by the Choice Supplier without obtaining the prior consent of the Choice Supplier.

b. If procured by the Choice Supplier, the Call Option may be exercised by it for any reason, including economic reasons, on any day when Company and/or other Commission-approved supplier of last resort does not need to exercise it because of Choice Supplier's failure to perform its natural gas supply delivery service obligations hereunder.

c. Company shall specify the period over which the Call Option may be exercised.

d. The Call Option may be a direct NYMEX instrument or it may be obtained indirectly from a third party. If the Call Option is a direct NYMEX instrument, the Choice Supplier shall assign the applicable capacity to Company. If the Call Option is obtained indirectly from a third party, then the transaction point shall be at a Company-approved city gate receipt point.

e. Choice Supplier shall be responsible for the cost of the Call Option.

8.4 Supply Contract Assignment. In lieu of other forms of financial security, a Choice Supplier may meet some or all of its financial security obligations hereunder by demonstrating to the Company's satisfaction that gas supply contracts acquired for purposes of serving its customers on the Company's system (and if applicable, any financial risk management contracts) shall be assigned to Company in the event of a Choice Supplier's failure to perform its natural gas supply delivery service obligations hereunder. Such assignment arrangements shall be subject to the following rules:

a. The Company, in its sole discretion, which shall not be unreasonably withheld, is satisfied with the relevant contract assignment language and applicable reasonable terms and conditions; and

b. Company, in its sole discretion, which shall not be unreasonably withheld, is satisfied with the security of supply; and

c. Choice Supplier agrees to reimburse Company for any losses Company suffers as a result of agreeing to the assignment arrangement, including, but not limited to, losses from a differential in the assigned gas prices and the Choice Supplier's contracted price with its customers and costs resulting from the assignment not being consummated for any reason.

8.5 Bonding Level – Unless Company otherwise agrees, the minimum level of financial security, in whatever form, shall be no less than the following:

*$40 * 10 Days * Daily Volume (in Dth) of Company Pipeline Capacity Released, Assigned or Transferred to Choice Supplier by UGI; plus*

*$120 * 10 Days * Design day Requirement (in Dth) Provided Using Third Party Capacity for Choice Supplier's Aggregation Pool.*

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200 NORTH THIRD STREET
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P.O. BOX 12105
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(717) 232-8199
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BISHKEK
ALMATY
BEIJING

E-MAIL ADDRESS: SCOTT.DEBROFF@LLGM.COM
WRITER'S DIRECT DIAL: (717) 232-8199
WRITER'S DIRECT FACSIMILE: (717) 232-8720

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August 27, 2004

DOCUMENT FOLDER

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Post Office Box 3265
Harrisburg, PA 17105-3265

Re: PA PUC Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

Pursuant to the Commission's Order of May 27, 2004, enclosed please find an Original and Ten (10) copies plus a computer diskette of Agway Energy Services' Statement In Support of the National Energy Marketers Association Testimony and Entry of Appearance.

If you have any questions please do not hesitate to contact me at your convenience.

Best Regards,

Scott H. DeBroff

Enclosures

cc: Terence X. McInerney

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural Gas Supply Market	:	**Docket No. I-00040103**

AGWAY ENERGY SERVICES STATEMENT IN SUPPORT OF THE NATIONAL ENERGY MARKETERS ASSOCIATION TESTIMONY AND ENTRY OF APPEARANCE

AND NOW COMES Agway Energy Services LLC ("Agway" or "Company"), by and through its counsel, and hereby files this Statement In Support of the National Energy Marketer Association Testimony and Entry of Appearance. In support of this Statement and Appearance, Agway states as follows:

1. Section 2204(g) of the Natural Gas Choice and Competition Act requires the Commission to initiate an investigation or other appropriate proceeding to determine whether effective competition for natural gas supply services[1] exists in the Commonwealth.[2]

1 The term "natural gas supply services" is defined as (1) the sale or arrangement of the sale of natural gas to retail gas customers; and (2)services that may be unbundled by the Commission under section 2203(3) (relating to standards for restructuring of the natural gas utility industry.) 66 Pa. C.S. §2202.

2 §2204(g) Investigation and report to General Assembly

Five years after the effective date of this chapter, the commission shall initiate an investigation or other appropriate proceeding, in which all interested parties will be given a chance to participate, to determine whether effective competition for natural gas supply services exists on the natural gas distribution companies' systems in this Commonwealth. The commission shall report its findings to the General Assembly. Should the commission conclude that effective competition does not exist, the commission shall reconvene the stakeholders in the natural gas industry in this Commonwealth to explore avenues, including legislative, for encouraging increased competition in this Commonwealth.

66 Pa. C.S. § 2204(g).

2. The Commission would have to initiate their investigation on, or shortly after July 1, 2004 to comply with the directive of the General Assembly. On May 27, 2004, the Commission, by its Order in Docket I-00040103, initiated its investigation.

3. The purpose of the investigation is to determine the level of competition that exists currently in the natural gas supply service market in Pennsylvania.

4. Agway Energy Services LLC is a retail natural gas marketer, headquartered in Syracuse, New York, and actively serving Pennsylvania natural gas customers.

5. Agway has been involved in the competitive retail natural gas market from close to the opening of competition in 1999 through the present. The Company is interested in having the Commission examine a number of measures that it believes would have a positive impact upon the competitive environment in the Commonwealth.

6. The measures that Agway is considering for the Commission's examination include the use of monthly market-based utility pricing, competitively neutral consumer education programs, facilitation of easy, cost-effective date flows, establishment of reasonable creditworthiness requirements, elimination of unreasonable supplier fees and penalties, and requiring reasonable discount rates for utilities that purchase marketer receivables.

7. Agway is a member of the National Energy Marketers Association (NEM), who has already filed or will be filing testimony on behalf of its membership in this proceeding. As a result, the Company wishes to indicate that it supports the testimony/comments of NEM in this proceeding.

8. Agway requests full party status in this Investigation and desires to participate in any and all parts of the process, including the upcoming *en banc* hearing to be held on September 30, 2004.

9. Agway looks forward to informing and educating the Commission on its experiences in the competitive retail natural gas market and providing recommendations for next steps to further strengthen and develop the Pennsylvania program.

Respectfully submitted,

Scott H. DeBroff

Scott H. DeBroff, Esquire
LeBoeuf Lamb Greene & MacRae LLP
200 North Third Street, Suite 300
P.O. Box 12105
Harrisburg, PA 17108-2105

Telephone: (717) 232-8199
Fax: (717) 232-8720
Email: sdebroff@llgm.com

Counsel for Agway Energy Services LLC

Dated: August 27, 2004

Kirkpatrick & Lockhart LLP

Payne Shoemaker Building
240 North Third Street
Harrisburg, PA 17101-1507
717.231.4500
www.kl.com

August 27, 2004

James P. Melia
717.231.5842
Fax: 717.231.4501
jmelia@kl.com

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VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

DOCUMENT FOLDER

Re: Investigation Into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Dear Secretary McNulty:

Enclosed for filing please find an original and ten copies of the Direct Testimony of Richard Kruse on behalf of Texas Eastern Transmission, LP in the above captioned proceeding. A copy of this Direct Testimony is also contained on a diskette which is being filed with this document. Mr. Kruse would be available to testify if required.

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

JP Melia

James P. Melia
Counsel for Texas Eastern Transmission, LP

JPM/cem
Enclosures

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TEXAS EASTERN STATEMENT NO. 1

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Into Competition in the Natural Gas Supply Market	:	Docket No. I-00040103

DIRECT TESTIMONY OF
RICHARD J. KRUSE
ON BEHALF OF
TEXAS EASTERN TRANSMISSION, LP

Q. Please state your full name and business address.

A. My name is Richard J. Kruse. My business address is Duke Energy Gas Transmission, 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251-1642.

Q. What is your academic background?

A. I received a Bachelor of Science in Economics from Texas Tech University in 1974 and graduated with a law degree from the University of Houston in 1977.

Q. Please describe your course of employment with Texas Eastern and the scope of your current duties and responsibilities for the company.

A. I am a Vice President with Duke Energy Gas Transmission responsible for business initiatives pricing and regulatory affairs. I started my employment in 1977 with Texas Eastern Transmission Corporation, now Texas Eastern Transmission, LP (both are referred to herein as "Texas Eastern"), in the rate department, which also was responsible for developing and implementing rates and pipeline tariffs. I subsequently transferred to the legal department, working principally with the rates and regulatory affairs groups at the company. In 1988, I was appointed Assistant General Counsel for Texas Eastern, and in 1990 I became Deputy General Counsel of Regulatory/Operations for Texas Eastern and Algonquin Gas Transmission Company, now Algonquin Gas Transmission, LLC (both referred to hereinafter as "Algonquin"). In 1992, I was named Vice President and General Counsel for Texas Eastern and, in 1995, I was named Associate General Counsel of PanEnergy Corp., responsible for PanEnergy's interstate pipelines. In 1997, after the merger of PanEnergy Corp. and Duke Power Company, I was named Vice President and General Counsel of Gas Operations for the new Duke Energy Corporation, and in 1998, Vice President and General Solicitor. In 1999, I took a business position responsible for industry *initiatives. In March 2000, I assumed additional responsibilities for rates and* regulatory affairs. In my current position, I have responsibility for all of Texas Eastern's proceedings before the Federal Energy Regulatory Commission ("Commission"), which includes rates, certificate matters, and tariff matters generally. I have similar responsibilities for the other Duke Energy Gas Transmission pipelines and storage facilities, including Algonquin, East Tennessee Natural Gas, LLC, and Egan Hub Partners, L.P. and the pipelines that the Duke Energy Gas Transmission affiliates manage, such as Gulfstream Natural Gas System, L.L.C. and Maritimes & Northeast Pipeline, L.L.C. Finally, I am on the Board of Directors for the North American Energy Standards Board, an association of numerous energy section companies that addresses electronic communication and common business practice standards.

Q. What are the interests of Texas Eastern in this proceeding?

A. Texas Eastern's interstate pipeline system extends from the State of Texas through ten states to the State of New York. Texas Eastern also has storage fields in Maryland and Pennsylvania. Texas Eastern has contracts with and provides transportation and storage service to several customers in the State of Pennsylvania.

Q. What is the purpose of your testimony in this proceeding?

A. Texas Eastern was an active participant in the gas restructuring cases of several Pennsylvania local distribution companies including Columbia Gas of PA, Dominion Peoples Gas Company, Equitable Gas Company, National Fuel Gas Distribution, UGI Corp., Penn Fuel Gas, Philadelphia Gas Works and PECO Gas during 1999-2000. In many of those cases, Texas Eastern filed testimony. Additionally, Texas Eastern has been active in gas collaboratives conducted by the various LDCs.

The purpose of my testimony is to provide Texas Eastern's comments in response to this Commission's May 28, 2004 Order initiating an investigation into the natural gas supply market and whether adequate competition exists in the state five years after the enactment of the Natural Gas Choice and Competition Act.

Q. As a FERC-regulated pipeline, can you provide any insight into developments at the FERC in the recent past which would impact natural gas supply in Pennsylvania?

A. The most significant development at the FERC of recent note would be Order 637 issued on February 9, 2000. Order 637 *et seq.*, provided for increased pipeline services in the secondary market, market segmentation and capacity release, all of which has increased the value of primary firm transportation. As explained below, Texas Eastern nevertheless remains convinced, as it has repeatedly stated in the past, that providers of service to firm loads should be required to hold firm capacity with firm receipt points and firm delivery points sufficient to meet their peak day requirements.

Q. Do you have any other recommendations regarding factors that the Commission should consider in assessing the success of gas competition on a prospective basis?

A. Yes. As the recent past has demonstrated, the significance of the creditworthiness of shippers/marketers must not be overlooked. It is very important that the Commission ensure that any shippers/marketers operating within Pennsylvania have sufficient creditworthiness to operate in both the short term and long term. The solvency of creditworthy shippers is also important to ensure the financial ability to hold and construct new pipeline capacity. It is my understanding that shipper/marketer creditworthiness is determined, in Pennsylvania, on an LDC-specific basis. While this may be sufficient, I would recommend that the Commission continue to oversee LDC-specific creditworthiness requirements in order to ensure that such requirements remain adequate.

Q. What is your assessment of the sufficiency of pipeline facilities within Pennsylvania?

A. Based on Texas Eastern's experience, it is apparent that the market is continuing to grow in Pennsylvania and the northeast as a whole. However, there have only been modest facility enhancements within Pennsylvania to accommodate this new market growth. I believe there remains some uncertainty in the marketplace as to which party is responsible for the construction of new pipeline facilities. Pennsylvania, like other states, has assigned LDCs with the responsibility as the supplier of last resort. Regardless of whether LDCs or other entities are charged with the responsibility of being suppliers of last resort, the supplier of last resort should be given clear signals that the costs of acquiring pipeline capacity and other assets on a firm basis sufficient to meet its obligations will be fully recoverable.

Q. Under what conditions is Texas Eastern willing to expand its capacity in Pennsylvania?

A. The Federal Energy Regulatory Commission (FERC), which is the entity that authorizes interstate pipelines to build new projects, requires that new projects meet certain criteria. Among other things, the pipeline project sponsor is required to show that there is a market for the project either though contracts or other evidence, such as market studies. Equally important, pipelines will not obtain financing to move forward with new construction unless the project is economically viable. Whether the project is economically viable will depend on shippers' commitments to long-term contracts, as well as the pipeline's perceived ability to secure longer-term capacity renewal when the initial contracts expire or otherwise terminate. I would note that Texas Eastern is currently holding an open season at this very moment to determine whether the market desires to expand.

Q. Do you have any further recommendations about LDC recovery of facility investments?

A. Yes. It is critically important for Pennsylvania LDCs that LDCs be allowed to recover from ratepayers the costs of new facility construction necessary to serve growing markets. LDCs should be assured that any investments that they make in upgrading and expanding pipeline facilities necessary to serve the intrastate market will be recoverable through rates.

Q. Do you have any observations on the permitting process for pipeline facilities?

A. Yes. It is very important that the state and federal agencies, responsible for permitting new pipeline projects, complete the review and permitting process in a timely manner. One of the most important factors in controlling gas prices to the end user is investment in new infrastructure. Investment in infrastructure means not only the upgrade and maintenance of existing pipeline facilities but timely investment in new pipeline facilities where market demands render existing facilities insufficient. The permitting process is a critical element in the investment in new infrastructure. Pennsylvania must recognize that, where these investments are concerned, regional and national interests must prevail over local interests in the permitting of interstate gas pipelines.

Q. What other factors should the Commission consider with reference to the disposition of interstate pipeline capacity held by LDCs?

A. In the various LDC restructuring cases, Texas Eastern made a number of recommendations on the treatment of pipeline capacity. Many of these recommendations are just as appropriate now as they were in 1999-2000. The existing interstate contractual commitments, held by an LDC, represent a valuable resource acquired by the LDC to assure reliable service for its service territory. In addition to being the vehicle for the transportation of gas from point A to point B, the contractual commitments by Texas Eastern for hourly delivery flexibility and pressure at specified points of delivery into the LDC's facility play a critical role in preserving the operational integrity of the LDC system. The Commission should continue to evaluate the impact on LDC operations and service to Pennsylvania markets if such contract rights are no longer held by the LDC. The Commission should also monitor who will be responsible in the future for maintaining adequate access to firm upstream pipeline capacity.

Q. Why is it important to maintain access to upstream interstate pipeline capacity on a firm contractual basis?

A. Continued reliable natural gas service is dependent upon continuing contractual dedication of capacity into Pennsylvania, including dedication of capacity at specific points that are operationally important (points of input, quantities of gas, and pressure) to LDC systems. Such capacity should be dedicated in quantities adequate to cover peak day as well as average day deliveries, to preserve historical reliability and supply diversity, and to meet, on a firm basis, new market demands. Without access to the requisite firm upstream interstate pipeline capacity, there can be no assurance of continued reliable service and growth of the market for clean-burning natural gas could also be affected.

Q. Are secondary points of receipt or delivery sufficient to ensure firm access to interstate capacity?

A. No, they are not. Under most interstate pipelines' firm rate schedules, customers have primary points of receipt and delivery, along with access to flexible or secondary points of receipt and delivery. If the customer wants to use secondary points of receipt or secondary points of delivery, it can try to schedule receipts and deliveries at those points. However, the customer's ability to receive and deliver gas at those locations is affected by the potential lack of availability of the secondary receipt and delivery point capacity. In other words, there is a curtailment risk associated with contracting for gas supply from a point without also having primary firm rights at that point.

Q. How can the Commission ensure that natural gas marketers provide reliable service?

A. Texas Eastern believes it is appropriate for the Commission to continue to require a marketer, desiring to serve customers on a firm basis, to show that it has firm capacity on the upstream interstate pipeline sufficient to meet the needs of its firm customers for the period of time that it intends to serve customers requesting service. Further, Texas Eastern believes that the marketer must continue to demonstrate that it has firm receipt point capacity at locations that will enable the marketer to access natural gas on a firm basis and firm delivery point capacity to deliver the gas to the LDC at the necessary input points.

Q. Do you have any observations on the mandatory assignment of capacity?

A. If contracts are assigned on a permanent, non-recallable basis, the existing contractual nexus between interstate pipelines and local distribution will be eliminated. Interstate pipelines will have no capacity obligations to LDCs. Accordingly, prior to imposing such a requirement, the Commission should take into account the effects of such action on the continued reliability of service in Pennsylvania. It is better to encourage providers of services in Pennsylvania to contract for capacity, rather than risk losing the safety net provided by the contractual dedication of capacity into Pennsylvania markets. Additionally, encouraging service providers to de-contract potentially jeopardizes the operation of the local distribution system because it will affect the capacity and pressure into the system.

Q. Can adequate capacity be obtained through short-term arrangements or capacity release?

A. The goal of reliability simply cannot be achieved with short-term commitments or reliance on released capacity. As mentioned above, pipelines must follow the procedures for awarding capacity set forth in their tariffs. For example, Texas Eastern awards capacity through an auction process. Shippers seeking short-term capacity must compete with other shippers for the capacity, so there is no assurance of obtaining capacity through this process. Additionally, since pipeline capacity is generally constructed to meet demand, Texas Eastern is, in general, fully subscribed. Short-term capacity will become available occasionally, but not on a predictable basis. Finally, while shippers do release capacity from time to time, not all capacity posted for release is primary firm capacity. For example, a shipper may release capacity that is secondary firm. As previously discussed, secondary firm capacity cannot be relied upon during periods in which the pipeline system is constrained. A supplier can only be assured of its ability to serve a particular market by acquiring primary firm capacity. Reliance on anything less that firm, primary point capacity could jeopardize reliability of service, especially during winter months.

Q. Pennsylvania has not yet begun its Supplier of Last Resort ("SOLR") proceeding. Do you have any observations on this subject?

A. To ensure reliability, the SOLR must be an entity with contractually held, non-recallable firm capacity at primary delivery points and primary receipt points, as well as access to sufficient supply, to meet the needs of customers covered by the SOLR obligation. In addition, the SOLR must possess and be able to demonstrate the financial ability to meet its obligations. To the extent the SOLR is allowed to rely on short-term primary, short-term capacity release or capacity with secondary, as opposed to primary, rights, consumers will be exposed to potential price volatility for both capacity and supply and exposed to the risk associated with the potential unavailability of capacity.

Entities that will be serving the SOLR function must be required to demonstrate a pre-existing capability to cover potential failures of the market. Given that the role of SOLR includes being called upon in market failure scenarios, the Commission must ensure that such entities have the opportunity to fully recover the legitimate costs associated with these pre-existing commitments. There must be sufficient economic incentives for such entities to fulfill what is essentially a standby supplier function for the entire period required to serve the market.

Q. Should reliability continue to be of paramount importance?

A. Yes, recognizing that reliability requires both investment in and dedication of facilities, and contractual arrangements that are firm under design day conditions. Parties making such investments, whether they be LDCs, pipelines, marketers or other parties, need a regulatory and marketplace structure sufficient to cover the costs of such investments. Continued reliable service is dependent on continuing contractual dedication of capacity into Pennsylvania, including dedication of capacity at specific points that are important operationally (points of input, quantities of gas and pressure) to LDCs. Without access to the requisite upstream interstate pipeline capacity there can be no assurance of continued reliable and safe service and growth of the market for clean-burning natural gas could also be affected.

Q. Does this conclude your testimony?

A. Yes.