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June 5, 2017

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

**Re: Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 59 Regulations Regarding Standards For Changing a Customer's Natural Gas Supplier
Docket No. L-2016-2577413**

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Commission's April 20, 2017 Order at the above-referenced docket.

Sincerely,

Donna M.J. Clark

Donna M.J. Clark
Vice President & General Counsel

Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 59 Regulations Regarding Standards for Changing a Customer's Natural Gas Supplier	: : : :	L-2016-2577413

COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO ORDER DATED APRIL 20, 2017

I. INTRODUCTION AND BACKGROUND

On December 22, 2016, Pennsylvania Public Utility Commission ("PUC" or "Commission") entered an *Advance Notice of Proposed Rulemaking Order Re: Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 59 Regulations Regarding Standards for Changing a Customer's Natural Gas Supplier*, Docket No. L-2016-2577413 ("ANOPR"), outlining changes to current regulations that would accelerate the process for transferring a customer account from "a service of last resort (SOLR) provider to a competitive natural gas supplier (NGS or supplier), from one supplier to another supplier and from a supplier to SOLR service." ANOPR at p. 1. The Commission seeks to accelerate the transfer process while preserving safeguards to prevent unauthorized switching of a customer's account in order to achieve its primary objective of aligning the switching rules in the natural gas utility industry with current regulations in the electric utility industry so as to create "a more consumer-driven marketplace". *Id.* at p. 17. Following receipt of stakeholder comments to the ANOPR, the Commission entered an additional order at Docket No. L-2016-2577413 on April 20, 2017

("April 20 Order") regarding "several concerns and/or … new proposals that warrant further exploration" and requested additional input on these topics. April 20 Order at p. 3.

The Energy Association of Pennsylvania ("EAP" or "Association") appreciates the Commission's efforts to gather additional input on a number of discrete issues raised in the initial set of comments to the ANOPR prior to advancing this rulemaking but remains concerned that the premise of these proposed amendments, i.e. that mandated 3 day multiple off-cycle switching will enhance retail shopping, benefit the shopping customer and entice more retail customers into the market, is flawed. While natural gas distribution companies ("NGDCs") are searching for ways to accommodate the Commission's desire to accelerate switching, a number of companies liken this effort to a solution looking for a problem, *see* NFG Comments at pp. 2-4; Peoples Comments at pp. 1-2; Columbia Comments at pp. 2-3 and 15[1], and each of the proposed accommodations would increase costs to ratepayers, *see* discussion *infra.* at p. 4, without any evidence that a three day switch is necessary to protect retail customers[2] or to further enhance the natural gas retail market.[3]

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[1] All comments cited herein are to comments filed to the ANOPR on or about February 21, 2017.

[2] As noted by UGI, accelerated switching in the electric retail market was "viewed as a potential remedy to customer dissatisfaction with variable rate product offerings of Electric Generation Suppliers that produced unexpected results during the polar vortex. In the gas retail market, however, such variable price product offers are rare for core market customers, and other reforms instituted by the Commission since the polar vortex suggest ... that protection for variable pricing products is not a sufficient public benefit to outweigh the costs of implementation and the ongoing incremental gas supply and other costs associated with gas accelerated switching." UGI comments at p. 7. In fact, NFG notes that "the opposite is true for gas consumers because abundant shale gas supplies, combined with access to primary firm transmission and storage capacity, have created a gas supply market that is appropriately characterized by lack of volatility." NFG Comments at p.2.

[3] Peoples indicates it has seen "no evidence that its customers desire faster switching", Peoples Comments at p.2, and further, among those customers choosing to shop, few "demanding, requesting, or even inquiring about changing suppliers during the monthly billing cycle" *id.* at p.5; Columbia agreed with the Commission's remarks in the ANOPR that "the rarity of BCS informal complaints regarding slamming is an indication that this issue presents no significant problems." *See,* Columbia Comments at p. 3. NFG adds that to date, there is "no proof that Electric Generation Suppliers (EGSs) are now offering cost savings, value-added services or special products in response to accelerated switching." NFG Comments at p. 2. Furthermore, "less than 15% of Pennsylvania consumers receive their bill from the same utility. If the meter read cycles for the NGDC and EDC coincidentally align, consumers might see a contemporaneous switch, but vast majority of the remaining 85% of consumers who receive a bill for a single-commodity will not benefit because they will not see a contemporaneous switch." *Id.* at p.3

There exists little evidence that the retail market generally, or customers specifically, are being harmed by the inability to switch natural gas suppliers within a three business day window. *See,* EAP Comments at pp. 7-8 and fn. 8. In fact, both NGDC and supplier experience has indicated that the market continues to thrive. As noted by UGIES – an electric and natural gas supplier with operations in ten states – "all the Commission's initiatives to provide attractive pricing options, clear communication and price flexibility are already being met in the current environment."[4] NGDCs and the Commission's Bureau of Consumer Services ("BCS") have received no complaints to date regarding the speed at which they are permitted to switch suppliers, belying some suppliers' claims to the contrary.

EAP continues to be concerned that the proposed changes to gas switching rules set forth in the ANOPR do not adequately account for the fundamental operational differences that exist between the natural gas and electric industries as well as the differences among Pennsylvania's NGDCs. These differences, including the capabilities of installed metering equipment, current back office and billing systems, and the gas nomination and capacity release process prescribed by the wholesale market rules of the Federal Energy Regulatory Commission ("FERC") are not trivial and limit the extent to which switching regulations can currently be aligned across and within utility industries. While it is correct that at least one NGDC can currently accommodate accelerated switching for low volume customers and others may be able to craft company specific fixes to accommodate some form of accelerated switching for retail customers, the solutions will not result in uniformity in the natural gas utility industry or between the natural gas and electric utility industries either from the customer vantage point or that of the natural gas supplier ("NGS"). Further, the fact that some form of accelerated switching may be possible

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[4] UGEIS Comments at p. 3.

must still be measured against the costs of implementation and the benefits to ratepayers. EAP believes that a cost/benefit analysis at this point in the Gas Retail Market Investigation should also account for the dollars expended to date on various efforts to improve the market, i.e. improvements to the consolidated bill, customer account access mechanisms and disclosure rules for NGSs.

EAP, a trade association whose members are regulated utilities operating in the Commonwealth of Pennsylvania[5], submits the following additional comments to the April 20 Order, incorporates the concerns and information contained in its previous comments and directs the Commission to comments filed by its individual NGDC members. EAP maintains that the Commission should continue to allow for differences based on each NGDC's particular set of circumstances when determining how best to revise the regulations regarding customer switching.

II. DIVERSITY OF NGDC SYSTEMS AND PROCESSES NECCESITATES A FLEXIBLE SOLUTION

As referenced in its initial comments to the ANOPR[6], EAP again emphasizes that accelerated switching akin to what is available in the electric retail market may be difficult to achieve due to operational system differences among NGDCs related to the nature of each company's physical assets and the particular interstate pipeline systems that deliver gas to each system. EAP continues to believe that acknowledging the differences in physical assets and

[5] Columbia Gas of Pennsylvania, Inc.; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company LLC; Peoples Equitable Division; Peoples TWP LLC; Philadelphia Gas Works; Pike County Light & Power Company; UGI Central Penn Gas; UGI Penn Natural Gas; UGI Utilities Inc.; and Valley Energy Inc.
[6] EAP Comments at p. 3.

operations across industries and between individual Pennsylvania NGDCs is paramount when making a determination as to the feasibility of accelerated switching in the gas retail market.

PECO "can implement 3 business day off-cycle gas switching ... **because it has installed an AMI system for its natural gas customers.**" PECO at p. 7 (emphasis added). However, the remainder of Pennsylvania's NGDCs do not have such capabilities. Even for those companies that have or are in the process of installing AMR, such as PGW and the Peoples companies,[7] this technology still requires a truck reading, typically performed once a month as the capability to "ping" the meter for mid-cycle usage information is still not possible.

Columbia details its system uniqueness stating that it is comprised of a "complex and widespread distribution network [with] numerous isolated local systems receiving supplies at approximately 240 individual points of receipt from six interstate pipelines. Many of these local systems are served by one or two points of receipt and have limited or no interconnectivity with other distribution systems." Columbia Comments at p. 5. This type of system is categorically different from other companies such as PGW which is wholly contained within one city (Philadelphia).[8]

In addition to the differences in physical systems among Pennsylvania NDGCs, differences in business systems also exist which impact each utility's ability and costs to implement any form of accelerated switching. For instance, UGI notes that while it is in the process of updating its customer information system (CIS), its present legacy systems "lack the ability to easily implement business process changes." UGI Comments at p. 4. As outlined in the following section of these comments, no utility has all the software or labor systems presently in place to accomplish accelerated switching without additional time and/or cost.

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[7] Peoples Comments at pp. 3-4.

[8] PGW outlines its unique system characteristics at pp. 5-6 of its comments to the ANOPR.

III. THE REAL COSTS FOR UNIFORM, MULTIPLE OFF-CYCLE SWITCHING PER MONTH MUST BE QUANTIFIED AND WEIGHED AGAINST POTENTIAL BENEFITS

The AMI that enables accelerated switching in the electric retail market is not in use by Pennsylvania NGDCs with the exception of PECO. PECO notes in their comments to the ANOPR that "without its AMI system, it would be more difficult" to accommodate multiple switches in a given month.[9] Even so, PECO estimates it would need to spend $2 million in updates to its billing system to effectuate multiple gas switches per month.[10] For those companies that provided estimated costs in their ANOPR comments, the total for just the billing updates necessary would be in excess of 12 million dollars. Columbia indicates that it would incur "cost[s] in excess of $6 million in one-time capital and O&M expenditures to implement the ability [for off cycle switching] in its accounting and billing database." Columbia Comments at p.12. The Peoples companies estimate $400,000 for one off-cycle switch, with costs rising to $1.4 million if required to make multiple off-cycle switches each month. Peoples Comments at p. 5. NFG estimates their total systems development costs for off cycle switching would be $1,575,000. NFG Comments at Appendix pp. 1-2. UGI estimates costs "in excess of $1.2 million in internal and external information technology labor costs alone to make the necessary modifications to its new CIS [customer information system]." UGI Comments at p. 5.

By comparison, Columbia spent $632,000 on updates necessary to implement both the account number access mechanism (Docket No. M-2015-2468991 *Natural Gas Distribution Company Customer Account Number Access Mechanism for Natural Gas Suppliers*) and the shopping information box (Docket No. M-2015-2474802 *Joint Natural Gas Distribution*

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[9] PECO Comments.at pp. 6-7.
[10] PECO Comments at p. 7.

Company -Natural Gas Supplier Bill) both of which, as of February 2017, have had no NGS utilization in Columbia's service territory.

Many of the company provided estimates were also offered with the caveat that these were amounts necessary based on one off-cycle switch per month; the costs would increase should the Commission seek to allow for multiple switches per month. As noted above, the Peoples companies indicate that the estimated expenditure for one off-cycle switch per month would be $400,000, but would more than triple to $1.4 million should the Commission require multiple off-cycle switches each month. UGI similarly indicated in its comments that its $1.2 million in estimated labor costs to update its IT system did not include further costs that would be associated with additional "software of business systems modifications that might result" to implement further accelerated switching. UGI Comments at p. 7.

Should the Commission choose to mitigate the concerns surrounding increased estimated meter reads which may result in numerous billing adjustments, increased costs and ultimately dissatisfied and confused customers by encouraging the acquisition and installation of AMI on NGDC systems, the costs would increase exponentially. Columbia and NFG each estimated approximately $30-40 million in initial capital expenses, with ongoing operational and maintenance costs close to $3 million per year.[11] Assuming that EAP's other NGDC members would incur similar levels of AMI installation costs (save for PECO which already has AMI capability), the total estimated costs for the hardware and software to complete multiple off cycle switches across the Commonwealth would exceed $160 million.

While EAP appreciates the Commissions desire to maintain Pennsylvania's status as a leader in energy retail markets, the Association notes that many other states that offer gas choice

[11] Columbia Comments at p. 13 and NFG Comments at p. 7.

do so with the understanding that gas systems may only be able to effectuate one switch per billing cycle. States such as Illinois, Indiana, Maryland, New York, and New Jersey inform consumers on their utilities' shopping web sites that switching to a supplier may take one to two billing cycles.[12] In Michigan, the state's Gas Choice website explains to consumers not only that switching timeframes are necessarily limited, but that the local utility may charge a $10 switching fee if consumers change suppliers more than once in any 12-month period and that the customer will be required to stay on utility service for 12 months should they cancel a contract with a supplier without selecting a new one. [13]

EAP is concerned that consumer shopping would not increase or benefit in the form of lower prices for the customer through the introduction of off-cycle switching and questions whether a desire for consistency with switching timeframes in the electric industry justifies the expense and disruption that would be caused by a mandatory move to off-cycle switching for NGDCs.

IV. REGARDING COMMISSION SPECIFIC PROPOSALS FROM APRIL 20 ORDER

EAP defers to its individual member NGDCs regarding the feasibility and costs associated with the specific proposals outlined in the Commission's April 20 Order.

- **Backdating NGS Switches:** EAP believes members will have varying abilities to affect a switch retroactively. NFG noted its capability in its comments, see pp. 9-10, as an alternative to the one set forth in the ANOPR.

[12] American Coalition of Competitive Energy Suppliers, State-by-State Information, http://competitiveenergy.org/consumer-tools/state-by-state-links/
[13] https://w2.lara.state.mi.us/GasChoice/Info/FAQs

- **Limitations on Off-Cycle Switching:** With regard to limiting off-cycle switching to one per billing cycle, EAP has addressed potential benefits in its comments above. See, *infra* at p. 5. EAP has further outlined the associated costs, *infra* pp. 5-6, with mandating multiple off-cycle switches per month in its comments above, as well as the fact that few customers, even those who presently shop, are requesting multiple switching capability, see *infra* pp. 2-3 and fn. 1-2, particularly due to the difference in risk associated with market price volatility between the electric and natural gas retail markets, i.e., polar vortex and variable rate products.
- **NGDC Acting as a Capacity "Clearinghouse":** EAP reiterates its prior comments regarding the complexities and costs associated with an NGDC acting as a "clearinghouse" to address capacity assignment in an off-cycle switching environment. As outlined by UGIES in its comments to the ANOPR, there are several broad issues with this concept.[14] First, this proposal assumes that all NGDCs have the capital (of an untold amount) to develop and additional personnel to operate an interface that can clear the transaction for both parties; EAP again emphasizes that this is capital that could otherwise be spent on other critical business operations such as infrastructure replacement. This proposal also assumes that all suppliers have a "methodology of tracking the value of internal hedges, that there is a method of financially validating the rate prior to posting and that ultimately the presented price would be acceptable to the selected NGS."[15] Furthermore, any associated costs for this platform and its operations

[14] UGIES Comments at p.4.
[15] UGIES Comments at p.4.

would find its way into the gas commodity price for consumers, ultimately raising rates and limiting the benefits of shopping.

PECO argues that the clearinghouse concept is unnecessary, as "NGDCs already perform this function successfully through their Imbalance Cash Out rules" which "achieves the Commission's intended result to ensure that gas commodity and capacity follow customers as they shop."[16] NFG further points out that such a role for Pennsylvania's NGDCs "may be outside the scope of exceptions the Federal Energy Regulatory Commission (FERC) provides to state approved retail access program participants" and has the potential to expose utilities to violations and associated penalties. NFG at p. 7. The costs for such a function, if permissible, have not been quantified and would increase the overall costs to implement accelerated switching beyond what has been laid out above.

- **Data Elements in §59.93:** EAP agrees with PECO that either this data should not be expressly required of NGDCs as it is not required of EDCs in the analogous EGS switching regulations (52 Pa. Code §§ 57.172-174) or that one-element verification be permitted, as PECO reports success with for its electric customers. PECO at p. 6. EAP ultimately recommends flexibility with this revision as some companies may be able to match on one element and others may still wish to verify with more.

[16] PECO Comments at pp.7-8.

V. THE LAW PROVIDES NGDCS THE RIGHT TO RECOVER PRUDENT AND REASONABLE COSTS TO IMPLEMENT CUSTOMER CHOICE ON A FULL AND CURRENT BASIS FROM EITHER CUSTOMERS OR OTHER ENTITIES

Although not directly addressed as an additional item of concern in the Commission's April 20 Order, EAP contends that any costs arising from changes to the switching regulations would be recovered pursuant to 66 Pa. C. S. A. § 2205 (c) (7). This new section in the Public Utility Code states: "Natural gas distribution companies shall have the right to recover on a full and current basis all prudent and reasonable costs incurred to implement customer choice from retail natural gas customers or other entities as determined by the commission. Recovery from retail natural gas customers shall be made pursuant to a reconcilable automatic adjustment clause under section 1307 (relating to sliding scale of rates; adjustments)." EAP believes that the law establishes the mechanism – an automatic adjustment clause as opposed to recovery via a base rate case – as the means to collect the costs of market enhancements from customers.

VI. CONCLUSION

For the reasons stated above, EAP asks the Commission to refrain from mandating off-cycle switching and, in particular, multiple off-cycle switching in the natural gas retail market. EAP contends that the differences between how the natural gas and electric wholesale and retail markets operate provide a rational basis for differences in switching regulations between the industries and that the likely costs for customers would exceed any benefit inherent in mandating a three business day switch in the natural gas retail market. However, should the Commission conclude that there is some benefit to gain in accelerated switching in the natural gas retail market that outweighs the associated costs, EAP asks the Commission to allow for each NGDC to move forward in the most cost-effective way, tailored to its capabilities and system specifics. EAP believes that if this "market enhancement" becomes required, flexibility should be allowed in lieu of rigid and costly uniform standards.

Respectfully submitted,

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