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June 18, 2020

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Supplier Door-to-Door and In-Person Marketing Moratorium Proclamation of Disaster Emergency – COVID-19; Docket No. M-2020-3019254; **PETITION OF INTERSTATE GAS SUPPLY, INC. FOR PARTIAL RESCISSION OF MARCH 16, 2020 EMERGENCY ORDER**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is a Petition of Interstate Gas Supply, Inc. for Partial Rescission of March 16, 2020 Emergency Order in the above-captioned docket. Copies of the Petition have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Todd S. Stewart
*Counsel for Interstate Gas Supply, Inc. d/b/a
IGS Energy*

TSS/jld
Enclosure
cc: Per Certificate of Service

CERTIFICATE OF SERVICE

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

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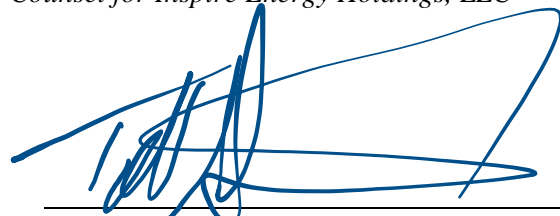
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Todd S. Stewart

DATED: June 18, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Supplier Door-to-Door and In-Person :
Marketing Moratorium Proclamation of : Docket No. M-2020-3019254
Disaster Emergency – COVID-19 :

**PETITION OF
INTERSTATE GAS SUPPLY, INC.
FOR PARTIAL RESCISSION
OF MARCH 16, 2020 EMERGENCY ORDER**

Now Comes Interstate Gas Supply, Inc. d/b/a IGS Energy (“IGS”) and hereby Petitions the Pennsylvania Public Utility Commission (“Commission”) pursuant to 66 Pa. C.S. § 703(g); and 52 Pa. Code § 5.572, for a Partial Rescission of the Commission’s March 16, 2020 Emergency Order (“Order”) in the above-captioned proceeding. IGS is a licensed electric generation supplier (“EGS”) and natural gas supplier (“NGS”) serving most markets in Pennsylvania. When the Commission issued its Order, IGS immediately complied and continues to comply with its requirements.

A majority of counties have now entered the Green Phase, with more counties, including Dauphin County, slated to make the transition on Friday, June 19, 2020. IGS now believes that a responsible and measured return to all three forms of person-to-person marketing can be safely engaged without putting potential customers or marketing personnel in danger. IGS has developed processes and procedures that will ensure that all applicable safety standards are maintained, thus minimizing the risk of the spread of COVID-19. Accordingly, IGS requests that the Commission rescind that portion of the Order that would restrict IGS from engaging in door-to-door, public

event, and in-person sales and marketing activities in those counties that have gone to the “Green Phase” under the Governor’s phased “Process to Reopen Pennsylvania”.¹ IGS requests that the Commission permit IGS, under the circumstances and subject to the conditions described herein, to engage customers once more, and to reach this determination at the earliest possible date. In support of its request, IGS states and avers as follows:

I. BACKGROUND

On March 6, 2020, Governor Tom Wolf issued a *Proclamation of Disaster Emergency* proclaiming the existence of a disaster emergency throughout the Commonwealth for a period of up to ninety (90) days, unless renewed.² The Governor’s *Proclamation of Disaster Emergency*, expressly authorizes and directs the suspension of “the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency.”³

On March 16, 2020, Commission Chairman Gladys Brown Dutrieuille issued an Emergency Order prohibiting jurisdictional suppliers—both EGS and NGS—from engaging in door-to-door, public event, and in-person sales and marketing activities during the pendency of the Governor’s *Proclamation of Disaster Emergency*, or unless otherwise directed by the

¹ <https://www.governor.pa.gov/process-to-reopen-pennsylvania/>

² See subsection 7301(c) of the Emergency Management Services Code, 35 P.S. §§ 7101, *et seq.*

³ *Proclamation of Disaster Emergency*, Commonwealth of Pennsylvania, Office of the Governor (March 6, 2020) available at <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

Commission.⁴ The Chairman’s Emergency Order directed the cessation of these sales and marketing activities to protect the health and safety of customers and supplier employees by minimizing social contact to reduce the spread of COVID-19. The Commission ratified the Emergency Order on March 26, 2020, finding that it was in the public interest.

On March 19, 2020, the Governor issued an *Order Regarding the Closure of All Businesses that are Not Life Sustaining*, which directed the closure of the physical operations of non-life-sustaining businesses to reduce the spread of COVID-19, and required businesses that remained open to adhere to social distancing requirements.⁵ On April 22, 2020, the Governor announced a phased plan for reopening businesses and easing social restrictions.⁶ The plan categorizes counties into three color-coded phases – red, yellow, and green – based on conditions in the counties. The “Red Phase” is the most restrictive, while the “Green Phase” is the least restrictive. All counties were initially in the Red Phase. The first counties moved to the “Yellow Phase” on May 8, 2020.

⁴ Marketing activities of suppliers are addressed by the Commission’s regulations at 52 Pa. Code §§ 111.1-111.14. In particular, door-to-door, public event, and marketing and sales activities, are defined at 52 Pa. Code § 111.2:

Door-to-door sales – A solicitation or sales method whereby an agent proceeds randomly or selectively from residence to residence.

..

Public event – An event in a public location which may facilitate sales and marketing activities or may result in a customer enrollment transaction...

Sales and marketing – The extension of an offer to provide services or products communicated orally, electronically, or in writing to a customer.

52 Pa. Code § 111.2.

⁵ *Order Regarding the Closure of all Businesses that are Not Life Sustaining*, Commonwealth of Pennsylvania, Office of the Governor (March 19, 2020) available at <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200319-TWW-COVID-19-business-closure-order.pdf>.

⁶ *Reopening Targeted for May 8 in North-Central, Northwest*, Commonwealth of Pennsylvania, Office of the Governor (April 22, 2020) available at <https://www.governor.pa.gov/newsroom/gov-wolf-reopening-targeted-for-may-8-in-north-central-northwest/>.

The phase designations, like the so many aspects of the COVID-19 experience, have been fluid over time. The Governor’s most recent designation lists 46 Counties in the Green Phase and 21 in Yellow, with 8 more slated to move from Yellow to Green on June 19, 2020.⁷ There are no counties currently in the Red Phase.

On June 3, 2020, the Commission issued an Order in response to a Petition filed by NRG Energy, Inc., at this same Docket, in which it rescinded the moratorium on in-person sales and marketing activities that would occur at businesses that are permitted to be open under the Governor’s Yellow and Green Phase requirements. IGS believes that the further opening of Pennsylvania since the Commission’s June 3rd Order, requires a more current review of the requirements and warrants further adjustment.

II. IGS’ PROCESS

IGS has thoughtfully considered what it believes to be the optimal approach to door-to-door and other in-person marketing during the Green Phase. It begins with IGS’s Home Energy Consultants (“HEC”) who are salaried professionals and are employed directly by IGS. They are not commissioned, part-time employees of a marketing firm. Moreover, IGS HECs are geographically located within close proximity to the customers to whom they market, and they are trained and retrained on a repeating cycle over time. The HECs are required to monitor themselves for symptoms, including body temperature, daily, and to report any anomaly to their supervisor. Any doubt in an HEC’s health is resolved in favor of the HEC not having customer contact until their status is resolved. If there are symptoms, arrangements are made for the employee to receive

⁷ *Gov. Wolf: Eight More Counties Going Green on June 19*, Commonwealth of Pennsylvania, Office of the Governor (June 12, 2020) available at <https://www.governor.pa.gov/newsroom/gov-wolf-eight-more-counties-going-green-on-june-19/>

appropriate healthcare. IGS simply will not put an HEC into the field if there is any doubt about their health.

IGS' HECs have at their disposal the means to provide a "touchless" experience for customers. First, HECs will be provided with a safety package of Personal Protective Equipment ("PPE"), that will include masks, gloves, antiseptic gel, antiseptic wipes, and a no-touch hook. These kits will be replenished on a regular basis. Throughout the entire sales process the HEC's will wear masks. At all times during the sales process, HECs are forbidden from entering a customer's residence and will not market in enclosed multi-unit premises units such as apartment buildings.

The sales experience begins with the HEC using a no-touch hook to knock on the customer's door or to ring the bell. The HEC then steps back to the appropriate social distance to address the customer. The sales presentation and process is guided by the HEC's iPad, and at the conclusion, if the customer wishes to enroll, an electronic link is sent to the customer via email so the customer can confirm the enrollment on the customer's own mobile device or computer.

The iPad not only facilitates the sales transaction, but it also provides a record of where and when the HECs have interacted with each customer, so that in the event of any future concern about contacts, the tracing process will be more easily managed. IGS' iPad experience is equipped with GPS tracking and accordingly could be used for this purpose. This capability can also be used to ensure that HECs are marketing only to the customers on their list of prospects. The entire customer experience can take place at the required social distance, even from behind a screen door, so the customer never needs to leave the comfort of their porch, or even leave their residence in a door-to-door setting, or remain closer than six feet in any other setting.

To the extent that a customer does not possess a mobile device or computer, our HECs are trained to provide their own tablet to the customer, after wiping it down, so the customer can complete the transaction. Once returned, the tablet is once again wiped down. IGS has prepared a series of training videos for its employees describing the required procedures for the entire sales process.⁸

By-appointment in-person marketing will most often take place at a place of business that is already permitted to be open and so all protocols for such businesses and buildings will be observed. HECs will wear PPE and will maintain required distancing. Any document necessary to complete a transaction will be transmitted electronically, so there is no need for any contact or close-proximity encounters. As with door-to-door marketing, if at any time the customer feels uncomfortable with the experience, the HEC's are trained to provide the customer with a sanitized business card and to immediately exit the premises and complete any further discussion on the telephone.

In the Green Phase, public events of less than 250 people are permitted, and to the extent such events may include opportunities for event marketing, the process would be much the same as for an in-person meeting. Customers would deal with HECs on a one-at-a-time basis, while maintaining social distancing and wearing masks as required. Enrollments would occur as in a door-to-door setting and all protocols would be followed.

While in some respects, this process is more restrictive than what is required for a typical retail encounter, IGS is nonetheless committed to providing a safe experience for its customers and its employees and will continue to adapt its process as necessary and follow the steps needed

⁸ The training video can be viewed at:
https://rise.articulate.com/share/e5p4dvMbmzHtHNaG-XT45O_o-lF3uoZa

on an ongoing basis to continually provide a safe experience. IGS will provide the Commission with prior notice of its door-to-door marketing, as it does today, as well as reasonable reporting of where it has marketed, after-the-fact, as may be required. Taken as a whole, this process will provide a safe and sustainable approach to in-person marketing that can adapt as needed to remain effective so long as the disaster declaration remains in place.

III. Argument

IGS is requesting that the Commission rescind that portion of its Order that currently prohibits IGS from engaging in door-to-door marketing for residential customers, and in-person, by-appointment, marketing to commercial, industrial, and residential customers in counties that are in the Green Phase. The Governor has now moved most of Pennsylvania to the reduced restrictions of the Green Phase, which allows far more commerce and greater opportunity for gatherings, while maintaining safeguards to limit the danger. Because it is presently unknown how long the Green Phase will need to last, it seems to be an appropriate time to lift the restrictions on in-person marketing.

The Commission may rescind or amend any of its orders at any time after providing notice to affected persons and an opportunity to be heard. 66 Pa. C.S. § 703(g). The Commission's regulations likewise allow a petitioner to request "rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like." 52 Pa. Code § 5.572. The Commission's standard for rescission or amendment requires a petitioner to demonstrate "new or novel" arguments not previously presented or heard by the Commission. *Duick v. Pennsylvania Gas and Water Company*, 56 Pa.PUC 553 (1982).

The "new or novel" basis for this Petition is that a majority of the Commonwealth is now in the Green Phase, for what could be an indeterminate amount of time. The rules for the Green Phase are sufficiently robust to allow most businesses to re-open with appropriate restrictions. IGS

does not believe that in-person sales fall into the category of businesses that are not permitted to open in the Green Phase, and are consistent with those permitted to open, particularly with the safeguards proposed herein.

With regard to door-to-door marketing, IGS believes and therefor avers that its process is at least safe for both customers and HECs as any typical retail encounter. Such encounters are permitted in the Green Phase in a greater number of establishments and in greater concentration than previously permitted. With IGS' touchless process, and because the HECs will never enter a customer's residence, concerns regarding the potential spread of COVID-19 are amply mitigated.

With regard to "by-appointment marketing", to Commercial and Industrial customers, those businesses are also permitted to be open during the Green Phase and with the safeguards discussed, will present no additional risk. The same is true for event marketing. While not a priority for IGS, there may be opportunities in gatherings of less than 250 people for marketing IGS products. Nonetheless, if the Commission believes that additional safeguards are necessary, IGS is certainly willing to entertain them.

Unlike many employers in this uncertain time, IGS did not furlough its HECs and has retained them on its payroll. Unfortunately, they are being underutilized, which places a strain on IGS' operations. The recent expansion of the list of Green Phase counties coupled with IGS' desire and need to recruit customers creates an urgency, and IGS renews its request that the Commission reach a determination at the earliest possible date. IGS would note that both New Jersey⁹ and Ohio¹⁰ have recently lifted the temporary restrictions on door-to-door marketing. Like

⁹ *IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' RESPONSE TO THE COVID-19 PANDEMIC FOR A TEMPORARY WAIVER OF REQUIREMENTS FOR CERTAIN NON-ESSENTIAL OBLIGATIONS*; Docket No. EO20030254; Order approved June 10, 2020, effective June 15, 2020.

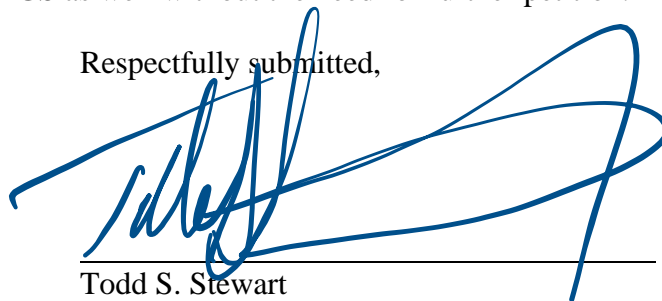
¹⁰ *IN THE MATTER OF THE PROPER PROCEDURES AND PROCESS FOR THE COMMISSION'S OPERATIONS AND PROCEEDINGS DURING THE DECLARED STATE OF EMERGENCY AND RELATED MATTERS*; Case No.

Pennsylvania, these states were some of the first to restrict in-person marketing and now are also leading the way back. Pennsylvania should join them at the vanguard by providing for a measured and responsible return to in-person marketing.

IV. CONCLUSION

Wherefore, IGS respectfully requests that the Pennsylvania Public Utility Commission rescind its Order of March 16, 2020 at the above captioned docket, to the extent necessary to allow IGS to engage in in-person marketing as more fully described and under the conditions described herein and subject to any changes to applicable policy or orders of the Governor and/or Secretary of Health. IGS also requests that to the extent the Commission, in a future order on the same subject, permits in-person marketing as described herein, in a less restrictive manner than herein described, that such requirement be applied to IGS as well without the need for further petition.

Respectfully submitted,



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*Counsel for Interstate Gas Supply, Inc. d/b/a
IGS Energy*

DATED: June 18, 2020

20-591-AU-UNC, and, IN THE MATTER OF THE JOINT APPLICATION OF THE RETAIL ENERGY SUPPLY ASSOCIATION AND CERTAIN COMPETITIVE RETAIL SUPPLIERS FOR WAIVER OF THE CURRENT SUSPENSION OF IN-PERSON MARKETING TO CUSTOMERS IN OHIO; Case No. 20-1040-GE-UNC; Entered in the Journal on June 17, 2020.

VERIFICATION

I, Anthony Cusati, III, certify that I am the Director of Regulatory Affairs, for Interstate Gas Supply, Inc., and that, in this capacity, I am authorized to and do make this Verification, that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that I expect Interstate Gas Supply, Inc. to be able to prove same at any hearing hereof. I understand that false statements made therein are made subject to the penalties in 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.



Anthony Cusati, III
Interstate Gas Supply, Inc.