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December 12, 2013

VIA ELECTRONIC FILING

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

RE: Investigation of Pennsylvania's Retail Natural Gas Supply Market, Docket No. I-2013-2381742; **COMMENTS OF NGS PARTIES TO ORDER DATED SEPTEMBER 12, 2013**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission are the Comments of NGS Parties to the September 12, 2013 Order in the above-captioned matter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Todd S. Stewart
Counsel for Dominion Retail d/b/a Dominion Energy Solutions, Interstate Gas Supply d/b/a IGS Energy, Shipley Energy Company and Rhoads Energy

TSS/jld
Enclosure

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF NGS PARTIES
TO ORDER DATED SEPTEMBER 12, 2013

NOW COME the natural gas suppliers, Dominion Retail d/b/a Dominion Energy Solutions ("DES"), Interstate Gas Supply, Inc. d/b/a IGS Energy ("IGS"), Shipley Energy Company ("Shipley") and Rhoads Energy Corporation ("Rhoads")(collectively "NGS Parties") and hereby submit their Comments in response to the Pennsylvania Public Utility Commission's ("Commission") September 12, 2013 Order ("Order") in the above-captioned matter. In its Order, the Commission invites interested parties to submit responses to eight questions regarding the level of competitiveness of the natural gas supply markets in the Commonwealth of Pennsylvania. The NGS Parties are grateful for the opportunity to contribute to this process and offer their assistance in any subsequent process or dialogue on this issue.

I. INTRODUCTION

The above listed NGS Parties all provide natural gas supply service in various Natural Gas Distribution Company ("NGDC") service territories throughout the Commonwealth, and collectively have a vast amount of experience in providing such service. These same suppliers also have an ongoing and significant interest in the competitiveness of the markets and in the evolution and improvement of the natural gas supply markets in the Commonwealth. The NGS Parties offer these comments in the spirit of providing the Commission with their collective perspective on the current markets – what needs to be fixed or improved, and how to do it – and not out of a desire to impugn any particular NGDC or other party. With that caveat, the NGS Parties provide the following responses to the questions as presented:

1. **What is the current status of retail natural gas competition for customers, by rate class and by service territory, and for NGSs? For each such customer class and service territory, how accessible are competitive suppliers?**

As a general matter, there is some competition in the western part of Pennsylvania, but not much in the east. This is due to a variety of factors, not the least of which is the fact that the western part of the state has access to significant on-system production, including Marcellus shale gas, and has the benefit of more ample on-system and upstream storage than does the east, which has relied more heavily on flowing supplies of gas and on pipeline provided upstream storage. Because the eastern part of the state has less access to Pennsylvania produced natural gas, it has been more dependent on supplies of gas produced elsewhere—and the accompanying higher prices. These physical factors combined with what appears to be a more pro-competitive attitude of some western PA NGDCs are a likely reason for the differential in shopping. On the whole, however, the residential market, at least, remains far less than optimally competitive on a statewide basis.

As between customer classes, participation in competitive markets tends to be much more significant at the large commercial and industrial level, where most customers shop for their natural gas supplies, as opposed to the small commercial and residential markets where statewide average shopping remains close to eleven (11%) percent. One obvious reason for this disparity is that for many such customers, energy is a major cost of business and thus these customers have significant monetary incentive to shop for the best price possible for natural gas. At this point, this so-called transportation market is functioning fairly well and no major efforts are presently required.

Conversely, in the residential and small commercial market, competition is lagging far behind, due at least in part to the fact that smaller natural gas customers tend to be less engaged in the natural gas markets, at least in part because their absolute spend on natural gas is significantly less compared to larger customers. However at the very root of this lack of residential customer engagement lies default service, which by its very existence inhibits effective competition. The problems begin with the fact that all customers must start natural gas delivery services on the default commodity service – there is no first choice option. This "start on default service" problem is compounded by the fact that it often takes months to switch away from default service -- even if a customer was otherwise prepared to choose a supplier at the outset. Another problem with default service is its lack of transparency due to constant reconciliations that do not reflect market costs. Most customers could not even begin to figure out how default service is priced, much less how to compare it to an offer from a competitive supplier. And last, but certainly not least, if a customer eventually does decide to accept a competitive offer, and leave default service, even after only a few months, that customer must pay the NGDC migration rider – for an entire year. All of these combine to make the task of convincing customers to leave default service daunting.

Of this list, the one item for which the Order suggests no solution, is the manner in which residential default service is priced. The default service price to compare ("PTC") is reconciled annually and adjusted quarterly, on a schedule that historically has often shown little influence from movements in the actual market price. In fact, the PTC can change in ways that are often contrary to actual movements in the market price. This lack of correlation is confusing to customers, to say the least. Layer-in the vestigial migration rider, which often is perceived as a new charge for shopping, and which tends to dampen perceived savings for a full year, and any chance at an accurate price comparison is often lost.

As the Commission is aware, the migration rider is the subject of pending legislation, House Bill 1188, which hopefully the General Assembly will pass in short order. Nonetheless, the current state makes it difficult for customers to appreciate the offers that are presented in the competitive market, and rather than participate, residential customers choose to do nothing.

With regard to NGS participation, there are natural gas suppliers participating in most of the residential markets in Pennsylvania, with the obvious exception of PGW which currently does not offer consolidated billing or POR. In most other service territories there typically is at least one supplier providing service, which can sometimes lead to more. One example of this is the UGI Utilities service territory where until recently, there had been a single supplier making competitive offers and where now there appear to be at least 4 or 5 NGSs making offers, including 3 of the NGS Parties. As a general matter therefore, there appears to be some interest among suppliers in most service territories in the Commonwealth.

2. **Are currently effective NGDC rates properly structured to reflect the separation between the cost of the NGDC's role as a distribution utility and its role as a supplier of last resort ("SOLR")?**

The short answer is no. While we believe that the Commission has made strides toward lessening this discrepancy in the recently concluded rulemaking and subsequent process which required NGDCs to unbundle the costs associated with procurement out of base rates, we do not believe that the unbundling process is yet complete. In order for the competitive playing field to be as level as possible (assuming NGDCs remain in the default service role), all costs that are duplicative of those incurred by NGSs must be removed from the base rates and be recovered through the commodity price. These include the costs of advertising, management, call centers, billing and marketing, etc. that remain in base rates. This approach is sometimes described as a bottom up approach, where the costs to be unbundled are developed based upon whether they duplicate competitor costs, as opposed to the top down approach, which seeks only to slice off the incremental costs directly associated with competition.

As a matter of principal, we do not believe that competition can be equitable and maximally effective until customers are not paying twice for any costs of providing them with natural gas supply service. What that means is that if the customers pay for a particular service or cost in their commodity rates to a natural gas supplier, they should not pay for that same service or cost in the distribution rates of their NGDC. To do otherwise, would require shopping customers to subsidize the customers taking default service from the NGDC. Ideally, this issue would disappear because NGDCs would not be competing in the merchant function role, however, until then, unbundling fully would make competition more fair.

This exercise will require time and effort and the NGS Parties stand ready to work with the Commission and interested parties to develop the criteria for this unbundling process.

3. Does the existing market design of NGDCs serving as the SOLR present barriers that inhibit customer choice or prevent suppliers from fully participating in the retail market?

Unequivocally, yes. By virtue of the fact that NGDCs provide default service as well as delivery service, they inhibit the expansion of the competitive provision of natural gas supply service. The very fact that the NGDC rate is the default rate creates a status quo bias in the mind of customers in favor of the default rate. Status quo bias, which is a tested and verifiable psychological phenomenon, creates a tendency in people to remain with the status quo, regardless of whether there are better alternatives available to them. Since all customers are assigned to NGDC default service, unless, and until, the customer affirmatively chooses an alternative supplier, the status quo automatically becomes the NGDC default rate. By making it the status quo for customer to be disengaged in the market, *de facto*, customers are being encouraged not to participate in the competitive retail natural gas markets.

Similar but related to the phenomenon of status quo bias is the fact that simply making the NGDC product the "default service" is an implicit endorsement of that product by the NGDC and regulators. This endorsement leads customers to remain on the default rate, where otherwise they might be inclined to choose another product in the market that better suits their needs. Ultimately customer's momentum to remain with the status quo, coupled with the perceived endorsement of the status quo by regulators, creates significant barrier for competitors to overcome in order to get customers to switch to a competitive service.

NGDCs also have financial incentives for locking customers into supplier of last resort service, complicating matters even more. These financial incentives include sharing of revenues produced through the leveraging of storage and transportation facilities that are in excess of those needed for customers, on a short term or long term basis. Other less obvious incentives include imposing above market penalties on natural gas suppliers for imbalances and crediting some, or all, of the revenue from those penalties to default service customers in the form of subsidies to the PGC. While some of these subsidies may not provide a direct financial benefit to an NGDC, they do have the effect of lowering PGC rates as a subsidy for customers who do not shop. These structures serve only to exacerbate the challenges to effective competition in the present natural gas markets. Moreover, due to these same financial incentives, the NGDCs have shown little desire to aggressively encourage customers to shop. Indeed, there are a number of NGDCs in Pennsylvania that heretofore have demonstrated a somewhat ambivalent, if not reticent attitude towards competition and which have not endeavored to promote competition. Status quo bias, lack of NGDC promotion, the almost complete absence of NGDC endorsement of choice (in the eyes of their customers), and subsidies flowing from NGDC distribution rates to the PGC are among the leading factors on the list of reasons for the current lack of competitiveness.

Another substantial problem that seems to have persisted is the unequal assignment, or non-assignment of pipeline and storage capacity. This inequality can take the form of a delivery scheme that allows suppliers no flexible use of the capacity, or to situations where the company may retain substantial storage capacity, and yet refuse to provide any to the NGSs on its system. Or as an "alternative" to providing actual storage, the NGDC might provide a bundled sales service to the NGS which is completely inadequate when compared to flexibility of controlling one's own storage assets as the NGDCs do. There also are NGDCs that provide NGSs with capacity assets but limit delivery only to certain uneconomic delivery points. Moreover, there are now two groups of affiliated NGDCs in Pennsylvania, each with three distinct NGDCs that continue to maintain inconsistent EGS rules across their footprints, that is, the rules for suppliers remain different in each service territory. To be fair, the Steel River subsidiaries have agreed to harmonize the rules as between the affiliates, but that process may take substantial time.

The NGDC in the supplier of last resort role, as a barrier to the competitiveness of the market, is compounded by the fact that the role of SOLR is considerably broader than the name might otherwise lead one to believe. In fact, under the current regime the NGDC could be considered the supplier of first resort because the NGDC default rate automatically receives all new customers when they sign up, or when they move. Like in the electricity markets, it would reduce barriers to competition if new customers were required to affirmatively choose a natural gas supplier rather than be assigned to the NGDC rate by default. At the very least, new customers should be allowed to select a non-NGDC natural gas supplier, and be informed of their ability to do so at the onset of natural gas distribution service. NGDCs historically have not entertained the notion of allowing for a first switch capability, even though it does not appear that there are any substantive barriers to doing so. This inequitable treatment of new and moving customers is responsible for depositing, and re-depositing as the case may be, at least 10 % of customers on default service on a yearly basis, with no acquisition costs. By contrast, NGSs must spend substantial dollars to motivate these customers to move away from default service. Unfortunately, that is the current basis of competition – NGSs seeking to dislodge customers from default service, rather than completing against one another to provide the best value for customers.

If the default rate is to continue as currently structured, as supplier of first resort service, given the market distortions it causes, the Commission should consider assessing a charge to the default rate that reflects the cost advantages that the default service product receives -- the primary cost advantage being the avoidance of any acquisition costs. The default rate should also reflect any other quantifiable cost advantages. All money recovered from the charge assessed to the default rate should then be returned to all distribution customers of the NGDC, including shopping customers.

Switching times also have proven to be a substantial barrier to the competitive market. There is no practical reason why it should take more than a month for any customer switch to become effective. Yet, based upon experience in most NGDC service territories, the time can easily stretch to two months before a switch is accomplished. Because, as a matter of good practice, suppliers provide their customers with full disclosure at the time of enrollment, having to tell the customer that it may be two months before the customer may be switched, does not help suppliers provide customers with a superior experience. These timeframes must be shortened to a matter of weeks or days, not months.

4. Should NGDCs continue in the role of SOLR?

There is no need for an NGDC to provide the SOLR function, much less be the provider of first resort, which is the role the NGDCs assume today. As long as they exist in that role, the financial incentives of participating in that role dissuade NGDCs from proactively promoting competition and thus subvert the potential effectiveness of competitive dynamics. Accordingly, the NGS Parties continue to support efforts to focus NGDCs on the key roles of building infrastructure and operating the natural gas distribution system and not on the role of selling commodity. If NGDCs desire to be sellers of commodity, they should do so through competitive affiliates and compete on equal terms with natural gas suppliers; however, the NGDC default service product should not have the inherent advantage in the market by being the product of first resort.

Moreover, the NGDC default rate product should not get more favorable regulatory treatment than NGS products. Currently NGDC default rate products are subject to different requirements than the competitive products NGSs sell in the market. For instance NGSs are subject to stringent contract, marketing, verification, enrollment and renewal requirements. While the NGS Parties are not necessarily advocating for the eliminating these requirements, NGS Parties are merely making the point that if regulatory requirements are going to exists, they should apply equally to all products in the marketplace. To do otherwise creates a substantial barrier to effective competition.

This perpetual inferior status granted to competitive products in the market makes competition less robust to the detriment of all customers. Accordingly, as discussed herein, the NGSs believe that the only long-term solution to maximize the efficiencies and effectiveness of competition, is the elimination of the NGDC as the default service supplier, and the gradual diminution of that role as an interim, but sub-optimal, measure. Any such SOLR service should be temporary and limited to a true backstop service, as opposed to being a permanent parking place for customers that do not engage in the market.

As a means of implementing this concept, a process could be developed that would transition customers remaining on default service after a certain grace period, to competitive suppliers via an assignment. NGSs would provide a temporary non-reconciled supplier of last resort, back stop service at a formulaic price based upon transparent market index, where the Commission would devise the formula. After the assignment, the status quo state of the market would be that customers shop and SOLR would be temporary. The substantial portion of the storage and capacity assets of the NGDCs would be assigned to suppliers or simply sold into the market. The point is that there is no structural reason why the NGDCs need continue to provide SOLR service. Particularly when they have financial incentives for doing so that tend to stifle competition.

5. Are there enhancements and updates to the current SOLR model that would further improve the state of competition within the retail natural gas market?

It is axiomatic that any regulatory scheme, particularly one that seeks to regulate an evolving competitive market, should be regularly re-examined to determine if updates or improvements are required to keep pace with the innovations and changes in the market. The NGS Parties believe, as discussed elsewhere herein, that the current SOLR model does not promote effective competition and ultimately prevents customers from realizing the full advantages of competition. The most significant improvement the Commission could make would be to advocate for the elimination of the NGDC in the role of the SOLR and to substitute NGSs in that role. Failing that substantial advancement, however, there are a number of other enhancements, which would improve the competitiveness of the market.

As discussed in more detail earlier in these comments, NGDCs should be required to fully unbundle all costs currently incurred by NGSs by removing them from base rates and recovering them in the utility commodity rate. With full unbundling, the price to compare will be matched on a more apples-to-apples basis to competitive offers, understanding that a true apples-to-apples comparison is not possible as long as there is a default rate in the marketplace. Moreover, the Commission should look at the current subsidies provided by penalties and by the sharing of revenues for the use of certain off system and on storage and transportation assets, which generally benefit only non-shopping customers and which often do not necessarily provide positive impact for NGSs on a comparable basis.

To put the market distortive effect of default service in context, no other competitive market for products and services in the United State contains a default service, including markets for products and services that are considered essential (e.g. food, gasoline, housing etc.). This is because in a capitalist society we intuitively understand that default service disrupts the competitive forces in a market that drive down prices, encourages efficiency and spurs innovation. A charge to the default rate that represents all costs avoided by the default rate, coupled with full unbundling by the NGDC as described above, is one means of truly putting all products in the market place on a level playing field, absent a full exit of the merchant function by the NGDC.

One other significant issue is that at least one NGDC does not allow NGSs to deliver locally produced gas into their system, while at the same time, using locally produced gas for its own system supply needs. This gross inequality cannot be perpetuated. It is clear that the NGDC involved uses the local gas to lower its costs, which makes its refusal to allow suppliers the same option even more difficult to accept. The ongoing policy of encouraging the use of locally produced gas (52 Pa. Code § 60.1) extends to NGSs and there is no coherent reason why NGS customers should not receive the benefit of lower cost gas.

In the current structure, NGDCs can voluntarily exit the merchant function. The NGS Parties believe that the Commission could provide incentives for that type of an exit, if it chose to do so, that could lessen the negativity of many NGDCs.

Of some consequence, would be programs that would ensure that the utility affiliated NGSs that compete for natural gas supply service do not enjoy any advantage over NGSs by virtue of the fact that they are a utility affiliate. The present advantages include use of the utility name -- without sincere disclosure of the fact that they are the utility affiliate, and any other inherently advantageous corporate arrangements such as shared service agreements that may pertain to an affiliate relationship. We are happy to provide examples of the exploitation of this type of relationship, affiliates have sent mail pieces which could lead customers to believe that the offered service is being provided by the utility. While there may be disclaimer language, the customer is not directed to review that language by any type of notation, and it appears from the context that potential customers could mistakenly believe that this simply a savings benefit provided to them by the utility. This type of marketing clearly seeks to leverage customer apathy and/or ignorance as to the true identity of the provider and to leverage the affiliate's common name with the utility so as to benefit from the good will that the utility has garnered over so many years using dollars that it recovers from ratepayers.

Finally, competition would be enhanced if utilities expanded the range of competitive products and services that can be billed on the utility bill. NGDCs should offer more flexibility when billing for the natural gas commodity including: 1) allowing NGSs to charge a flat monthly fee to customers on the utility bill; 2) allowing NGDCs to offer prices that adjust based on publically available indexes; 3) billing for "percentage off" products offered by NGSs; and 4) eliminating the restrictions on the number of fixed price products NGSs can make available in the market. NGDCs should also make available the option to bill non-commodity products and services that enhance the value of the natural gas commodity to customers. As energy technology advances, there is great potential to add value for customers by bundling products with the natural gas commodity. One of the benefits of competition is that it encourages innovation in the products and services offered in the marketplace. More dynamic utility billing will expand the range of products and services that are offered by NGSs, maximizing the benefits of competition to all customers.

a. Are there opportunities through the potential restructuring of the SOLR model and retail gas market to encourage expansion of natural gas distribution facilities into areas of the Commonwealth that do not currently have access to natural gas facilities?

Because the expansion of natural gas facilities tends to be a function of the distribution utility, it is somewhat difficult for NGSs to participate in the responsibility of expanding those facilities. However, the existence of competitively priced and available natural gas supplies in any particular NGDC service territory, certainly can increase the local demand for the commodity and, therefore, incentivized customers to contribute to building out NGDC infrastructure necessary to provide them service if they currently are not capable of connecting.

b. Are there changes to the retail natural gas market that the Commission can undertake *de novo* through regulation or policy that would promote retail natural gas competition?

As discussed above, the Commission could encourage (through incentives or otherwise) natural gas distribution companies to voluntarily exit the merchant function and to cooperate more fully in the development of the competitive market, including the unbundling of additional costs of providing service and improving the current rules for providing service in any particular service territory. Moreover, further uniformity in the statewide rules for nominations and other operational aspects of providing natural gas distribution service, including uniformity in creditworthiness standards, could make it easier for new suppliers to enter the market and to sustain that entry over time on a statewide basis, or at least more expansive basis than they presently may be able to achieve due to the challenges associated with having to learn or adapt to systems with each entry into a service territory. Elimination of all discrimination in all requirements, particularly including capacity assignments, in which suppliers tend to be treated less favorably than utility default service, would assist in this endeavor.

c. Are there changes to the retail natural gas market that the Commission cannot undertake *de novo* through regulation or policy that would remove barriers to retail natural gas competition?

The primary barrier to fully competitive markets today is the existence of the NGDC in the default service role. Short of eliminating the provision of that service by the NGDC, some of the other tools available to the Commission that would reduce barriers to entry include the following, many of which have already been discussed in more detail herein.

- fully unbundling all costs required to provide default service to customers from NGDC distribution rates including costs of gas supply personnel, call centers, overhead expenses :

- consolidating the supplier's ability to licensing on a statewide basis,
- normalizing rules across the state, particularly with regard to the nominations, creditworthiness, penalties, and other such operational items that would make it easier for suppliers to operate on a statewide basis,
- eliminating the ability of affiliates to engage in competition by leveraging the use of the utility name, even down to what may seem the most innocuous such as revising the letters that are sent to customers when they switch to a natural gas supplier. One can see by the example letter attached, which has been redacted, that these letters may make a customer believe that the utility believes that it is risky for them to be engaging in the competitive market. They are not written on customer friendly terms, which will encourage the customers to have confidence in their choice and which may cause a customer to seek to rescind that approval. These letters need to encourage and re-enforce the customer's decision to have made a choice of supplier.

d. What legislative changes should be made to further improve the retail natural gas market in Pennsylvania?

As discussed more completely above, the NGS Parties believe that the primary methodology for ensuring the full competitiveness of the market is the removal of utility-provided default service. A transitional mechanism, as discussed above, could be useful to facilitating the NGDCs exit of the commodity supply function. Any such mechanism, however, should be clearly defined as a transitional mechanism that would ease the current default service model into a non-utility default service, and eventually into a true supplier of last resort back stop service provided by the competitive market.

Short of easing the NGDC out of the SOLR role, the elimination of the reconciled default service rate could serve to provide customers with far better price signals, which would allow customers to fully respond to the market in a way that they cannot do now under the current reconciled scheme. This type of full market responsiveness not only would promote equitable competition, but also would further the goal of energy conservation, because customers would make behavior modifications in response to timely and transparent price signals. In the current structure, with the rates being disassociated with the market, customers have no idea the true price of what they are paying for and, therefore, have no incentive to reduce their consumption, to the extent possible, in response to any particular supply situation. In a sense, Pennsylvania default service customers are flying blind and trusting the NGDC to provide them with the best price when this certainly has not proved to be the case historically.

6. Are there outcomes from the Commission's recently completed electric RMI that would applicable and useful to implement in the retail gas market? To the extent possible, please provide comments on the following topics:

a) seamless move;

b) accelerated switching timeframes;

c) standard offer program;

d) low-income customer shopping;

e) expanded to customer education about shopping; and,

f) any additional RMI initiative that would translate well to the retail natural gas market.

The items listed above present real and immediate opportunities to enhance the customer experience with regard to shopping. With regard to the seamless move, having customers be able to stay with their supplier when they move is a great advantage, particularly when customers otherwise are required to return to default service for a month or two in most NGDCs service territories upon moving. A seamless move program will eliminate this requirement and should otherwise increase customer satisfaction and allow them to continue taking service from their selected supplier.

Accelerated switching timeframes are critical for the customer satisfaction with the shopping experience. It is inexplicable that customers should have to wait over a month in order to switch their natural gas supplier and begin to recognize the benefit of the bargain to which they believe they are entitled. This is a significant concern. If the current standard slow switch can be eliminated in the same time frame that the migration rider also is eliminated (that is assuming House Bill 1188 is passed by the Senate and signed into law), it should help to ease some of the major mechanical switching issues.

With regard to a standard offer program, any program that encourages customers, particularly new and moving customers, and other customers who contact the utility, to engage in the choice market, should be a success. The numbers in the electric industry are encouraging that this program could help to increase migration, particularly in those service territories where customers may not believe that the utility actually wants them to choose.

Allowing low-income customers to enjoy the benefits of shopping seems to be a "no brainer". The people who need the opportunity to save money the most are those who now are often prohibited from shopping. The concerns that keep them from doing so are the paternalistic concerns that they may not be able to shop on their own, even though they shop for every other product every other day of the week. We believe that portability of any type of customer assistance should be implemented to allow customers who are on any type of support program to shop.

7. To take advantage of the opportunity that is present through the Marcellus Shale Resource, should NGDCs and NGSs be encouraged to explore opportunities with natural gas exploration of production companies?

Yes. The addition of Marcellus shale commodity into the mix has had the effect of lowering the commodity price for customers, and suppliers should be encouraged to explore opportunities with those production companies. To the best of our knowledge, they are doing so today. Because these partnerships tend to occur organically, creating regulations around them probably is not needed.

However, we also are aware that some NGDCs may have rules that prohibit NGSs from bringing local production into their distribution systems while at the same time taking advantage of this resource for system supply as part of an over-all least cost purchasing strategy. To the extent that those utilities currently have interconnections that enable local production to be brought in for the purpose of default service supply, and NGSs are not permitted to do so, that is clear discrimination and should not be tolerated by this Commission, which has a policy of supporting locally produced gas in the Commonwealth. There should equal footing for a locally produced gas and local production in Pennsylvania – for all. To the extent that NGSs choose to bring local production and require inner-connections for the production companies to do so, they should be able to work cooperatively with them to allow facilities to be constructed, and interconnected with the distribution system to allow more local production into the distribution systems, not less. Maximum flexibility in this arena is the key, and the NGDCs should be as cooperative as possible in this endeavor and ensure that all Pennsylvanians get the benefits of the low cost shale gas that is currently being produced in Pennsylvania.

8. Recognizing that the Commission withdrew the proposed rulemaking addressing NGDC business practices at Docket No. L-2009-2069117 and committed to commencing a new proposed rulemaking on these issues, please provide comments on the continued need to address standardized supplier tariffs and business practices with regard to imbalance trading, tolerance bands, cash out and penalties, nominations and capacity.

The over-arching problem that suppliers face with current operational rules is that they tend to place substantial and often undeserved risk on NGSs, while at the same time not imposing those risks on NGDC's. It is axiomatic that increased risk often leads to increased cost and that makes NGS service more expensive, all other things being equal.

For example, an NGS could face a non-OFO-day penalty of $23.30/dth for under deliveries on a certain NGDC system. While one might argue that a penalty of this magnitude creates an incentive for the supplier to deliver the correct amount of gas every day, it also creates a huge potential cost for any delivery problem, no matter what the cause, and no matter what the financial impact. In a sense, the NGDC is holding the NGS to a standard of perfection – enforced with a 300%-400% above market cost penalty -- on days when there is a substantial likelihood that there may be no operational harm as the result of what most likely would be a simple error.

At the same time, NGDCs do not hold themselves to this standard of perfection. In fact, one might argue that the ability of NGDCs to require NGSs to deliver increased quantities on OFO days, for example, to address the reliability of the entire delivery system, is essentially leaning on the NGSs to solve a system problem, even if the root cause of the OFO were some problem with the NGDC's delivery mechanisms. This lack of balance and equity places higher costs on NGSs and causes them to subsidize default service customers and presents yet another cost barrier to competition.

The guiding principle for operational rules is that they must be fair and neutral in conception and application as between default service and NGS service, and should not place extra risk on NGSs. If the Commission believes that disincentives for bad behavior are demonstrably necessary, that is, there is a history, or at least some tangible evidence, of bad behavior, those disincentives (aka, penalties) must be tied to the financial consequences of the bad act. In other words, penalties must be intended to deter actual problems and must be market cost based. Operational rules must also be intended to address actual operational issues and not simply designed to increase complexity and/or risk of operations. Finally, rules must be neutral to the greatest extent possible. With these concepts in mind, the NGS Parties believe it would be appropriate to take a statewide look at rules concerning imbalance trading, tolerance bands, cash out and penalties, nominations and capacity, because in their experience, these rules often impose additional risk, and are not always neutral or market based. A discussion of the specific rules is beyond the scope of these comments, but the discussion must be had.

II. CONCLUSION

The NGS Parties wish to thank the Commission for this opportunity to comment on an issue of such critical importance to their continued success. The NGS Parties will endeavor to assist in any effort that will move this process forward and look forward to the next stage of this proceeding.

Respectfully submitted,

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