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November 20, 2008

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17102

Re: Reply Comments of the Energy Association of Pennsylvania in Revision
of Guidelines for Maintaining Customer Services, Establishment of
Interim Standards for Purchase of Receivables (POR) Program
Docket No. M-2008-2068982

Dear Secretary McNulty,

The Energy Association of Pennsylvania (“EAPA”) offers the following Reply Comments in the above-referenced proceeding.

Initially, based on comments submitted by a majority of stakeholders, there exists consensus that the current statute does not provide for mandated Purchase of Receivables (“POR”) programs. See e.g., Comments of the Office of Consumer Advocate at p. 12; Comments of T.W. Phillips Gas and Oil Co. at p. 2; Joint Comments of Dominion Retail, Inc., Interstate Gas Supply, Inc. and Shipley Energy Company at p. 8 (“In the current context, with regard to voluntary POR programs, no statutory change would be necessary to allow NGDCs to treat all customers the same.” Emphasis added.); and Comments of Agway Energy Services, LLC, Gateway Energy Services Corporation, Interstate Gas Supply, Inc., Shipley Energy Company, Vectren Retail, LLC and the National Energy Markets Association at p. 6. Thus, in order to move forward on POR programs, the Pennsylvania Public Utility Commission (“PUC”) has strongly encouraged Natural Gas Distribution Companies (“NGDCs”) to establish voluntary POR programs.

Revision to the 1999 Guidelines¹ is a necessary first step to the development of voluntary POR programs. NGDCs, as well as Natural Gas Suppliers (“NGS”), concurred in the S.E.A.R.C.H. investigation that the inability of a NGDC to terminate a customer for failure to pay purchased NGS supply charges was a major impediment to the development of voluntary

¹ Guidelines Order entered August 26, 1999 at Docket No. M-00991249F003.

POR programs in Pennsylvania. NGDCs and NGSs unanimously agreed that the 1999 Guidelines under consideration needed to be revised to allow NGDCs to terminate a customer in a POR program pursuant to Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations for failure to pay supply charges. Revision to these Guidelines, so as to permit equal treatment of NGS and NGDC customers, will likely provide benefits to NGDCs, NGSs and customers alike in the form of more unified billing and collection systems, lower discounts for POR programs, increased supplier participation and increased customer migration. NGSs have consistently stated in S.E.A.R.C.H., in the Columbia rate case, and in comments to the instant Secretarial Letter that establishment of POR programs will eliminate a barrier to market participation by suppliers, thereby improving the Pennsylvania gas choice marketplace.

Establishing requirements through the regulatory process for POR programs would be the logical second step in the POR development process. In this regard, EAPA respectfully suggests that the completion of the rulemaking on POR programs as outlined in the Commission's Final Order and Action Plan (Docket No. I-00040103F002) is necessary prior to the development, approval and implementation of individual NGDC POR programs. In its comments, EAPA requested a suspension of the December 31, 2008 deadline for submitting voluntary POR proposals and of the alternative mandatory requirement that a cost of service study be submitted either in the next 1307(f) proceeding or base rate case, whichever came earlier, in lieu of proposing a POR program until such time that regulations are finalized.²

Lack of clarity with respect to the anticipated proposed regulations and the Guideline changes discussed above discourages submission of voluntary POR programs by the December 31, 2008 deadline. Moreover, the mandated alternative requirement which suggests further unbundling of a utility's charges, either in the context of a 1307(f) proceeding or a base rate case, appears questionable in the light of 66 Pa.C.S. § 2203(3) which authorizes the PUC to address further unbundling through a rulemaking rather than in individual utility proceedings. The rulemaking (perhaps preceded by an advanced notice of proposed rulemaking on POR program requirements in a collaborative process) will definitively establish the requirements and allow for voluntary programs by NGDCs based on a uniform set of standards. EAPA recognizes that the PUC looks to move the S.E.A.R.C.H. process forward via its Final Order and Action Plan and believes that the above suggested suspension will result in more uniform, cost-effective programs in the markets of those NGDCs which choose to offer voluntary PORs.

² EAPA notes that T.W. Phillips Gas and Oil Co., together with National Fuel Distribution Corporation, filed a joint petition seeking a suspension of the request to file a proposed POR program by Dec. 31, 2008 and of the alternative mandatory requirement until 120 days following resolution of the revision of the Guidelines. EAPA supports this petition and asks further that the suspension remain in place until after the completion of the rulemaking.

In the comments filed November 5, 2008, EAPA supports revision of the Guidelines to remove any regulatory uncertainty that NGDC's be allowed to terminate a customer's service for the customer's failure to pay NGS charges associated with receivables purchased from an NGS under an approved connection with a POR program. EAPA maintains that if NGS customers were treated the same as NGDC customers in POR programs, then those customers would then receive all the protections afforded by Chapter 14 of the Public Utilities Code and Chapter 56 Regulations. Moreover, the revision would further the legislative intent found at 66 Pa.C.S. § 1402 to reduce NGDC receivables. Additional consumer protections would not be necessary. Finally, statutory amendments would be necessary if the Commission were to establish mandatory POR programs.

With respect to the Commission's request for guidelines that may be used in the design and administration of POR programs, EAPA offers the following suggestions to assist in the preparation of regulations identified in the Final Order and Action Plan:

- POR programs are voluntary;
- Right to terminate customers pursuant to Chapter 14 of Public Utility Code and Chapter 56 of Commission regulations upon failure to pay EGS gas supply charges purchased under the POR program;
- NGDCs purchase only receivables associated with gas supply charges and no other services that may be provided by NGSs;
- NGS receivables purchased at a discount to recover uncollectible and associated administrative expenses adjusted periodically to reflect collection risk;
- Fully recover costs associated with POR program development, implementation and administration;
- POR programs available to residential and small commercial customers only;
- POR programs only available on NGDC consolidated billing service;
- For NGS to participate in POR program, all customers served by NGS must be included;
- Restoration of NGS customers following termination pursuant to Chapter 14 of the Code and Chapter 56 regulations; and
- NGS must respond to customer complaints regarding rate disputes in timely manner.

The above list is not exclusive and EAPA reserves the right to suggest further guidelines as requirements for POR programs are developed in the future rulemaking.

The Commission's request for comments on the 1999 Guidelines was a solid starting point for the development of voluntary POR programs. EAPA respectfully suggests the Guideline revision be completed along with the anticipated rulemaking prior to requiring the filing of POR

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program proposals by NGDCs. EAPA asks that the Commission suspend the December 31, 2008 proposed date and the alternative mandatory requirement of a cost of service study until the Guideline revision and rulemaking are finalized.

Very Truly Yours,



Donna M. J. Clark
Vice President & General Counsel

DMJC/lb
Enclosures

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