



## ***National Fuel***

---

Lee E. Hartz  
*Assistant General Counsel*

July 31, 2009

**VIA NEXT DAY UPS**

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

**Re:** Petitions of Pennsylvania Electric Company ("Penelec") and Pennsylvania Power Company for Approval of their Energy Efficiency and Conservation Plans: Pa. PUC Docket Nos. M-2009-2112956 & M-2009-2112952

**PETITION TO INTERVENE**

---

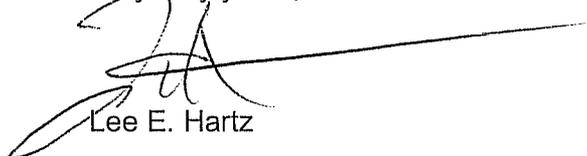
Dear Secretary McNulty:

Enclosed for filing with the Commission is an original copy of National Fuel Gas Distribution Corporation's Petition to Intervene in the above-captioned matters, along with a receipt of electronic filing.

Service is being effectuated as indicated on the Certificate of Service.

If you should have any questions regarding this filing, please contact me anytime at (814) 871-8060. Many thanks for your assistance in this matter.

Very truly yours,



Lee E. Hartz

Enclosures

cc: Per Certificate of Service

Secretary James J. McNulty  
July 31, 2009  
Page 2

bcc: (w/encl.):

Carl Carlotti  
Eric Meinl  
Bruce Heine  
Mike Reville

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Petitions of Pennsylvania Electric Company (“Penelec”) and Pennsylvania Power (“Penn Power”) Company for Approval of their Energy Efficiency and Conservation Plan</b>	:	<b>Docket No. M-2009-2112956</b>
	:	<b>M-2009-2112952</b>
	:	<b>PETITION TO INTERVENE</b>
	:	
	:	

---

**PETITION TO INTERVENE OF NATIONAL FUEL GAS  
DISTRIBUTION CORPORATION**

---

National Fuel Gas Distribution Corporation (“NFGDC”), by and through its undersigned attorney, hereby files this Petition to Intervene in the above-captioned matter pursuant to 52 Pa. Code § 5.71 through 5.74. In support of this Petition, NFGDC hereby avers as follows:

**I. Timeliness of this Petition.**

1. On or about July 25, 2009, notice of the Petitions of Pennsylvania Electric Company (“Penelec”) and Pennsylvania Power Company (“Penn Power”) for Consolidation of Proceedings and Approval of Energy Efficiency Conservation Plans (the “EEC Plans”) was published in the Pennsylvania Bulletin. The notice established that an answer along with comments and recommendations addressing the EEC Plan are to be filed on or before August 14, 2009. The notice also provided an intervention deadline of July 29<sup>th</sup>, 2009.

2. NFGDC is seeking leave to file this Petition to Intervene after the Notice date of July 29<sup>th</sup> pursuant to 52 Pa. Code § 5.74(b)(1) which establishes that Petitions to Intervene may be filed up to and including the date fixed for the filing of responsive pleadings. In this instance the Notice provided that responsive pleadings may be filed no later than August 14<sup>th</sup>, 2009. While 52 Pa. Code § 5.74(b)(2) provides that Interventions may not be filed after the

date fixed for filing protests as published in the Pennsylvania Bulletin, that rule does not apply to this filing. As such, NFGDC does not believe that the time period for filing Petitions to Intervene can be limited by the Pennsylvania Bulletin Notice.

3. NFGDC recognizes that an Initial Prehearing Conference has occurred in this matter on July 29, 2009. As NFGDC is seeking leave to file this Petition and be granted Intervention after the date established in the Pennsylvania Bulletin, NFGDC agrees to accept the record related to this proceeding "as is" up to the point at which NFGDC is either granted or denied leave to Intervene.

## **II. Background.**

4. NFGDC is a certificated natural gas distribution company providing service to approximately 213,000 customers in Northwestern and North-Central Pennsylvania. NFGDC is also a customer of both Penelec and Penn Power through numerous accounts with both of these companies. NFGDC operates various facilities including, but not limited to, service centers, office buildings, customer response centers and natural gas distribution facilities served by either Penelec or Penn Power. For instance, NFGDC has over 100 individual accounts served by Penn Power.

5. NFGDC is represented in this proceeding by the following counsel:

Lee E. Hartz  
Pa. I.D. No. 87675  
Assistant General Counsel  
National Fuel Gas Distribution Corporation  
P.O. Box 2081  
Erie, PA 16512  
(814) 871-8060  
[hartzl@natfuel.com](mailto:hartzl@natfuel.com)

Notices and information regarding this matter should be sent to the above-listed counsel for all documents in this matter.

6. Having reviewed the filings in this matter to date, NFGDC expects that its participation in this proceeding will include, monitoring the proceeding, potentially filing a

response to the EEC Plans, supporting testimony provided by other participants and potential cross examination.

### **III. NFGDC'S Grounds for Intervention.**

7. Consistent with the requirements of Act 129 and the Commission's Implementation Order thereof, Penelec and Penn Power filed a Joint Petition for approval of their EEC Plans with the Commission. The EEC Plans address, among other things, how Penelec and Penn Power propose to meet the power consumption reduction requirements of Act 129 and how Penelec and Penn Power propose to finance their EEC Plans.

8. In this Proceeding, the Commission will determine, among other things, whether the EEC Plans are in compliance with all Act 129 requirements and whether the proposed methods of cost recovery and implementation are within the public interest.

9. 52 Pa. Code § 5.72 provides that an entity may intervene in a proceeding if it claims an interest in the proceeding that may be directly affected and which is not adequately represented by existing participants or an interest of such a nature that the participation of the Petitioner may be in the public interest. See 52 Pa. Code § 5.72(a)(2)-(3). As discussed below, NFGDC has such interests as both a customer of Penelec and Penn Power and as a certificated natural gas company providing service in the territories where electric service is provided by Penelec and Penn Power.

#### **A. NFGDC'S Interests in Intervention as a Customer.**

10. As a customer of both Penelec and Penn Power, NFGDC has an interest in this Proceeding to ensure the measures proposed in the EEC Plans would meet or exceed the required usage reduction mandated by Act 129. A major thrust of the Act 129 legislation is the potential effect that demand side response reduction would have on electricity rates. As a customer, NFGDC has an interest in the impact the EEC Plans will have on its electricity bills.

11. Similarly, the EEC Plans have a cost recovery component that may impact the rates that NFGDC pays for electric service. NFGDC has an interest in ensuring that

the EEC Plans will provide a benefit through reduction in usage that will outweigh the amount it pays for electric service. NFGDC further has an interest in ensuring that the EEC Plans will be administered in such a way as to minimize costs that will be passed on to ratepayers and that maximum usage reduction can be achieved in a cost effective manner through the methods proposed.

12. As a customer, NFGDC has an interest in evaluating whether the EEC plans fail to consider or incorporate potential alternative conservation measure that would more efficiently allow Penelec and Penn Power achieve the mandated reduction requirements of Act 129.

13. As a customer, NFGDC has an interest in evaluating whether the EEC Plans will adversely impact the rates that NFGDC pays for goods and services other than electric generation or distribution.

**B. NFGDC'S Interests in Intervention as a Natural Gas Distribution Company under § 5.72(a)(2).**

14. NFGDC also is eligible to intervene in this Proceeding under Pa. Code § 5.72(a)(2) because, as a certificated natural gas supplier in the service territories covered by both Penelec and Penn Power, NFGDC has an obligation to ensure that the proposed EEC Plans will not adversely impact its customers.

15. As NFGDC understands the EEC Plans, a potential exists for individuals in the service territories shared by NFGDC and Penn Power to receive rebates, credits or other discounts on electric powered heating or water heating equipment. NFGDC is concerned that such a potential may result in a transfer of current natural gas based customers to electric service. Such discounts have, in the past, been responsible for customers switching from natural gas based appliances to electric based appliances. Moreover, by displacing natural gas service with possibly less efficient (from a fuel source perspective) electric service, these transfers may not be in the public interest.

16. In addition, NFGDC is not indifferent to load loss. To the contrary, the EEC Plans will harm NFGDC because under current rates, a loss of throughput will produce an uncompensated loss in revenues. Since the EEC Plans have the potential to reduce NFGDC's throughput, NFGDC has a distinct interest in this proceeding, on its behalf and on behalf of its customers, to protect against the loss of natural gas load and potential load.

17. In addition, if the EEC Plans have the potential to encourage current natural gas customers to convert to electric based appliances, such conversions would, in fact, be contrary to the general demand reduction goals of Act 129.

**C. NFGDC'S Interests in Intervention as a Natural Gas Distribution Company under § 5.72(a)(3).**

18. NFGDC has, throughout the Commission's various Act 129 proceedings, advocated the inclusion of fuel switching technologies in EEC Plans to assist in the reduction of demand side response.

19. In NFGDC's opinion, the use of natural gas resources as an electric usage reduction measure has the potential to provide significant reduction benefits at limited additional costs to the ratepayers of Penelec and Penn Power.

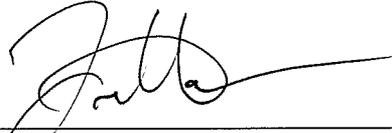
20. As a certificated natural gas distribution company serving customers in the territories served by Penelec and Penn Power, NFGDC is in a unique position to best evaluate the potential impact that the use of natural gas resources, particularly Pennsylvania's Marcellus Shale reserves, can have on the effectiveness and efficiency of EEC Plans. This is particularly true with respect to the total costs that Penelec and Penn Power's customers will ultimately pay for the implementation of the EEC Plans.

21. As such, NFGDC has an interest in participation in the Proceeding that may be in the public interest.

**IV. Conclusion.**

22. WHEREFORE, for the foregoing reasons, NFGDC respectfully requests that the Commission grant it leave to: (1) file this Petition for Intervention; and, (2) grant NFGDC leave to intervene and admit it as a party to this joint proceeding.

Respectfully submitted,



Dated: July 31, 2009

---

Lee E. Hartz  
Pa. I.D. No. 87675  
National Fuel Gas Distribution Corporation  
P.O. Box 2081  
Erie, PA 16512  
(814) 871-8060  
(814) 871-8061 fax  
[hartzl@natfuel.com](mailto:hartzl@natfuel.com)

*Attorney for National Fuel Gas Distribution Corporation*

## CERTIFICATE OF SERVICE

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

### Via First Class Mail & Electronic Mail:

Honorable David A. Salapa  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[dasalapa@state.pa.us](mailto:dasalapa@state.pa.us)

Renardo Hicks, Esquire  
Stevens & Lee  
16<sup>th</sup> Floor, 17 North Second Street  
Harrisburg, PA 17101  
[rlh@stevenslee.com](mailto:rlh@stevenslee.com)

William R. Lloyd, Jr., Esquire  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
[willoyd@state.pa.us](mailto:willoyd@state.pa.us)

Charles D. Shields, Esquire  
Carrie Wright, Esquire  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
[chshields@state.pa.us](mailto:chshields@state.pa.us)  
[carwright@state.pa.us](mailto:carwright@state.pa.us)

Aron J. Beatty  
Candis A. Tunilo  
Tanya J. McCloskey  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101  
[ABeatty@paoca.org](mailto:ABeatty@paoca.org)  
[CTunilo@paoca.org](mailto:CTunilo@paoca.org)  
[TMcCloskey@paoca.org](mailto:TMcCloskey@paoca.org)

Bradley A. Bingaman, Esquire  
First Energy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001  
[bbingaman@firstenergycorp.com](mailto:bbingaman@firstenergycorp.com)

Kathy J. Kolich, Esquire  
First Energy Service Company  
76 South Main Street  
Akron, OH 44308  
[Kjkolich@firstenergycorp.com](mailto:Kjkolich@firstenergycorp.com)

Scott Perry  
Assistant Counsel  
Commonwealth of Pennsylvania  
Dept. of Environmental Protection  
RCSOB, 9<sup>th</sup> Floor  
400 Market Street  
Harrisburg, PA 17101-2301  
[scperry@state.pa.us](mailto:scperry@state.pa.us)

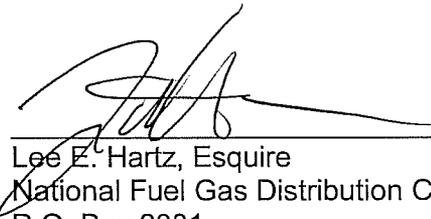
Lillian S. Harris  
Thomas J. Sniscak  
Hawke McKeon & Sniscak LLP  
P.O. Box 1778  
100 North Tenth Street  
Harrisburg, PA 17101  
[lharris@hmslegal.com](mailto:lharris@hmslegal.com)  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)

Mark C. Morrow  
Senior Counsel  
UGI Utilities, Inc.  
460 North Gulph Road  
King of Prussia, PA 19406  
[morrowm@ugicorp.com](mailto:morrowm@ugicorp.com)

Charis Mincavage  
Barry A. Naum  
Shelby A. Linton-Keddie  
McNees, Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[bnaum@mwn.com](mailto:bnaum@mwn.com)  
[skeddie@mwn.com](mailto:skeddie@mwn.com)

Dated: \_\_\_\_\_

7/31/09



\_\_\_\_\_  
Lee E. Hartz, Esquire  
National Fuel Gas Distribution Corporation  
P.O. Box 2081  
Erie, PA 16512  
(814) 871-8060