**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Harrisburg, Pennsylvania 17105-3265**

**Licensing Requirements for Natural Gas Public Meeting – June 16, 2010**

**Suppliers; SEARCH Final Order and 2069115-LAW**

**Action Plan: Natural Gas Supplier Docket Nos. L-2008-2069115**

**Issues I-00040103F0002**

**STATEMENT OF VICE CHAIRMAN TYRONE J. CHRISTY**

Before the Commission for consideration is the Final Rulemaking Order in the above captioned matter, recommending approval of revisions to the Commission’s security requirements for licensing of natural gas suppliers (NGSs) at 52 Pa. Code §§ 62.101-62-114. This rulemaking resulted from our September 11, 2008 Final Order and Action Plan regarding the Commission’s *Investigation into the Natural Gas Supply Market: Report on Stakeholder’s Working Group (SEARCH Order),* Docket No. I-00040103F0002. In the SEARCH Order, the Commission determined that one way to increase effective competition in the retail natural gas market was to revise the NGS licensing regulations in regard to the level of security needed and the forms of security that could be used to satisfy the statutory security requirement for licensing. Seven parties filed comments in response to the proposed rulemaking order: the Energy Association of Pennsylvania (EAPA); Philadelphia Gas Works (PGW); National Fuel Gas Distribution Company (NFG); Equitable Gas Company (Equitable); PECO Energy (PECO); the NGS Parties and the Retail Energy Supply Association (RESA).

I am concerned about one aspect of the proposed revisions to our licensing requirements, that being the inclusion of accounts receivable pledged or assigned to a natural gas distribution company (NGDC) by a supplier participating in a NGDC purchase of receivables (POR) program as an acceptable form of security. It is important to note that financial security requirements for NGSs are necessitated by Section 2207(k) of the Public Utility Code, 66 Pa.C.S. § 2207(k), which requires a NGDC, acting as supplier-of-last-resort, to charge customers returning from a defaulting NGS the rates the NGS would have charged the customer for the remainder of the billing cycle. The statute provides, “Any difference between the cost incurred by the supplier of last resort and the amount payable by the retail gas customer shall be recovered from the natural gas supplier or from the bond or other security provided by the natural gas supplier... .” The purpose of the bond or other security is to ensure the financial responsibility of the NGS.

The addition of accounts receivable as a form of security has created significant concerns from several of the parties submitting comments to this rulemaking proceeding. The EAPA states that participation in a NGDC POR program by a NGS may reduce the financial risk or exposure created by the default or bankruptcy of a NGS and may impact the amount of security necessary, but participation in the program cannot in itself be the security. NFG states that the notion that an entity could use something it has sold or pledged as security is fundamentally flawed. NFG avers that the receivables may reduce the financial exposure imposed by a NGS on a NGDC, but the impact will not be a security instrument. PGW states that receiving a pledge of accounts receivable is not as simple as receiving a bond, a letter of credit or being the beneficiary of money deposited into escrow. PGW avers that it is simply not possible for a supplier to provide a security interest in accounts receivable that it does not own. Equitable and PECO have submitted similar concerns on this issue and state that receivables do not adequately mitigate risk for NGDCs and should not be eligible for use as security.

I must respectfully dissent, partially, from the majority’s decision today on this one aspect of the proposed rulemaking as I agree with the aforementioned comments that receivables pledged or assigned to a NGDC by a NGS participating in the NGDC’s POR program should not be included as an acceptable security instrument or property. While I agree that the amount of receivables under a POR program may reduce the financial exposure by a NGS on a NGDC, that reduced financial exposure should be considered in the context of the overall NGDC formula for security. This formula would consider, among many details, the current level of customers, the volume of natural gas delivered and the average price of natural gas. As a result, I would have preferred that the proposed regulations rely upon adjustments to the level of security by the aforementioned issue and excluded the use of POR program receivables as a form of NGS security.

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**DATE TYRONE J. CHRISTY, VICE CHAIRMAN**