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June 13, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**Re: Licensing Requirements for Natural Gas Suppliers Regulations at 52 Pa. Code §
62.101 – § 62.102
Docket No. L-2011-2266832**

Dear Secretary Chiavetta:

In accordance with the January 13, 2012 Proposed Rulemaking Order in the above-captioned matter, enclosed for filing please find the Comments of Washington Gas Energy Services, Inc. These Comments were filed electronically through the Pennsylvania Public Utility Commission's e-File system today.

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

Best Regards,

STEVENS & LEE


Michael A. Gruin

Encl.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking Re Licensing Requirements :
For Natural Gas Suppliers : **Docket No. L-2011-2266832**
At 52 Pa. Code § 62.101 - § 62.102 :

Comments of
Washington Gas Energy Services, Inc.

Washington Gas Energy Services, Inc. (WGES) hereby submits its comments on the Commission's Proposed Rulemaking Order dated January 12, 2012, on licensing requirements for natural gas suppliers (NGSs) (hereinafter "Proposed Order"). The Commission has opened this rulemaking to determine whether the exemption from NGS licensing requirements for "marketing services consultants" and "nontraditional marketers" should be discontinued, and whether all natural gas marketers, aggregators, and brokers should be required to obtain NGS licenses.

In general, WGES supports the comments submitted by the National Energy Marketers Association ("NEM") in response to the Commission's Proposed Order. WGES agrees with NEM that this is an appropriate time for the Commission to revisit its definitions of various entities that are active in the natural gas supply market. In particular, WGES agrees with NEM that the Commission should consider refining the expansive definition of a "marketing services consultant" to exclude "energy consultants" that "arrange for the sale of natural gas for a consumer." Further, the Commission should revise its regulations to assign appropriate responsibility to energy consultants for their actions, rather than assigning responsibility to NGSs.

Currently, “marketing services consultants” are exempt from NGS licensing requirements. The definition of a “marketing services consultant” as adopted by the Commission is outlined in § 62.101 of the Pennsylvania Code as follows:

Marketing services consultant – A commercial entity, such as a telemarketing firm or auction-type website, or energy consultant, that under contract to a licensee or a retail customer, may act as an agent to market natural gas supply services to retail gas customers for the licensee or may act as an agent to recommend the acceptance of offers to provide service to retail customers. A marketing services consultant:

- (i) Does not collect natural gas supply costs directly from retail customers.
- (ii) Is not responsible for the scheduling of natural gas supplies.
- (iii) Is not responsible for the payment of the costs of the natural gas to suppliers, producers, or NGDCs.

In adopting this definition, the Commission chose to include “energy consultants” in the same category as other “marketing services consultants.” At this time, it may be appropriate for the Commission to revisit this definition. As the marketplace has developed, entities that fit the description of “energy consultants” in the definition above have taken on the role of “acting as an agent to recommend the acceptance of offers to provide service to retail customers” or other activity that purports to be on behalf of customers. Under this type of scenario, the main contractual relationship exists between the energy consultant and the customer. Further, NGSs generally do not exercise any control over the actions of energy consultants. Despite a lack of control and contractual relationship, under current regulations NGSs may be held responsible for the actions of these entities.

NGS responsibility for the activities of a “marketing services consultant” is appropriate when the marketing services consultant acts as an agent of the NGS, and when the NGS

exercises control over the actions and policies of the marketing services consultant. Where this type of control in the relationship does not exist, it is not appropriate to ascribe responsibility to the NGS. Accordingly, the Commission should revisit the definition and licensing exemption for “energy consultants” as they relate to a corresponding assignment of responsibility to licensed NGSs. WGES urges the Commission revise Title 52, Chapter 62 of the Pennsylvania Code to assign appropriate responsibility for violations of state law, regulations, orders and directives, and fraudulent, deceptive, or other unlawful marketing or billing acts to energy consultants.

WGES appreciates the opportunity to comment on the Commission’s proposed rulemaking relating to licensing requirements for natural gas suppliers. While our comments do not address whether any particular entities should be licensed, WGES would be happy to comment further should the Commission decide to pursue licensing requirements for specific types of entities acting in the natural gas supplier market.

Respectfully Submitted,

Harry A. Warren, Jr.
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