

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY
Consumer Advocate

April 15, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

If you have any questions, please feel free to contact me at the number listed above.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Aron J. Beatty'.

Aron J. Beatty
Assistant Consumer Advocate
PA Attorney I.D. # 86625

Enclosure

cc: David E. Screven, Law Bureau
Colin W. Scott, Law Bureau
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: April 15, 2013

The Office of Consumer Advocate (OCA) files these Comments in support of the Commission's proposed modifications to its licensing requirements for natural gas suppliers. The Commission's proposed modifications will strengthen its regulations concerning the activities of parties involved in the sale of natural gas. The OCA submits that the proposed modifications are a measured and appropriate step in the process of regulating the retail natural gas marketplace based on experience in the field.

The OCA supports requiring what are currently termed "market services consultants" to be licensed by the Commission. As the Commission noted, the term "market services consultants" is synonymous with "broker/marketer." Advanced Notice of Final Rulemaking at 5. The Commission further noted that a number of "broker/marketers" have filed for licenses despite the existing exemption for "market services consultants." Id. As a result, the Commission embarked on modifying its regulations in order to recognize the direct customer contacts that are part of such entities operations. Id.

In reviewing the treatment of non-licensed retail gas market participants, the Commission assessed the activities of gas-related entities since its initial regulations were established. As the Commission stated:

However, upon its subsequent experience of monitoring the activities and interactions of entities acting or operating as "marketing services consultants" in the gas retail market, the Commission believes the entities appear to provide functions that are the same or similar to those performed by "aggregators" and "brokers" operating on the electric competition side. Therefore, the Commission now determines that it is appropriate to revisit the definitions of those entities operating within the competitive retail gas market.

Advanced Notice of Final Rulemaking at 13.

The OCA submits that these modifications are particularly significant as “broker/marketers” have taken up an increasingly significant role in the retail gas market. As the Commission explained:

Finally, as mentioned by the comments, there has been a growth in the number of entities offering to provide energy consulting services to consumers. We agree that these energy consultants work on behalf of *consumers* as intermediaries between the consumer and an NGS. As such, these “energy consultant” activities fall within the definition of “broker” and, therefore, entities that provide energy consultation services for consumers would be required to obtain a license from the Commission.

Advanced Notice of Final Rulemaking at 14.

As the Commission detailed, the growth in marketing service consultants engaged in the activities of brokers warrants consideration at this time. The OCA submits that the Commission’s proposed modifications appropriately reflect the importance of broker/marketer interactions with consumers in the retail gas market.¹

In addition to the changes to the “market services consultant” provisions of the Regulations, the Commission further proposes to maintain an exemption for “Non-traditional

¹ The proposed changes are similar to neighboring jurisdictions such as Maryland. The Maryland Public Service Commission licenses “Gas Suppliers” and incorporates a broad definition of that definition that includes broker/marketer activities. The Maryland regulations define Gas Suppliers as follows:

(9) Gas Supplier.

(a) "Gas supplier" means a licensed person that:

(i) Sells gas, gas supply services, or competitive billing services; or

(ii) Purchases, brokers, arranges, or markets gas or gas supply services for sale to a retail gas customer.

(b) "Gas supplier" includes an aggregator, a broker, and a marketer of gas.

Md. Regs. Code tit. 20, § 54.01.02.

marketers.” The Commission defined non-traditional marketers as “community-based organizations, civic, fraternal or other groups with a common interest that work with a licensed NGS to endorse that NGS’ natural gas supply service to its members.” Advanced Notice of Final Rulemaking at 15. Importantly the members of such non-traditional marketers are not required to purchase the services from any partnering NGS. Id. The OCA submits that the Commission’s determination to not require a license for non-traditional marketers is reasonable.

The OCA submits that the Commission’s proposed modifications to its retail gas licensure regulations are reasonable and should be incorporated into the Commission’s Regulations at this time.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 15th day of April 2013.

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