

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

**Investigation of Pennsylvania's
Retail Natural Gas Supply Market**

**Public Meeting - September 12, 2013
2381742 - CMR**

**JOINT MOTION OF
COMMISSIONER PAMELA A. WITMER AND
COMMISSIONER JAMES H. CAWLEY**

On June 22, 1999, Governor Thomas J. Ridge signed into law the Natural Gas Choice and Competition Act, effective July 1, 1999, 66 Pa. C.S. §§ 2201-2212 (Act). Pursuant to the Act, beginning on November 1, 1999, all Pennsylvania retail gas customers were given the ability to choose their Natural Gas Supplier (NGS), instead of receiving their supply service from their Natural Gas Distribution Company (NGDC). Despite this ability, in its *Report to the General Assembly on Pennsylvania's Retail Natural Gas Supply Market*, issued October 2005, the Pennsylvania Public Utility Commission (Commission) determined that effective competition did not exist in Pennsylvania's retail natural gas market.¹ As a result of this determination, the Commission was required by law to convene a natural gas stakeholders working group to explore avenues, including legislative, in order to encourage increased competition in the Commonwealth. See 66 Pa. C.S. § 2204(g).

The Natural Gas Stakeholders Working Group, subsequently named SEARCH,² first met on March 30, 2006, and numerous times after that. Its work and recommendations culminated in a Final Order and Action Plan, entered on September 11, 2008, at Docket No. I-00040103F002. While the Commission has implemented a number of changes in an attempt to enhance retail gas competition as a result of that proceeding, including completed rulemakings regarding NGDC cost-recovery and rates³ and NGS licensing,⁴ the number of current customers purchasing gas from a competitive supplier remains dismal at less than thirteen percent on a statewide basis. This causes us great concern because we believe that there are more opportunities for customers to benefit from robust competition in the retail natural gas market.

At the same time, one of the challenges for regulators is remaining current with the constant changes within the industries and markets they regulate. Given the tremendous natural gas resources that exist in the Commonwealth, there is great excitement over the potential to grow the use of natural gas. As access to this abundant resource becomes increasingly available and the necessary infrastructure is built-out, the Commission believes it is important to ensure that consumers have

¹ For purposes of the Report, "effective competition" was defined as: (1) Participation in the market by many sellers so that an individual seller is not able to influence significantly the price of the commodity; (2) Participation in the market by many buyers; (3) Lack of substantial barriers to supplier entry and participation in the market; (4) Lack of substantial barriers that may discourage customer participation in the market; and (5) Sellers are offering buyers a variety of products and services. See *Report to the General Assembly*, p. 25.

² SEARCH is an acronym for "Stakeholders Exploring Avenues for Removing Competition Hurdles."

³ See Docket No. L-2008-2069115

⁴ See Docket No. L-2008-2069114

opportunities to realize the advantages of a robust and effective competitive natural gas industry. To that end, we believe that the time is right for the Commission to renew its inquiry and initiate a formal investigation into the current status of Pennsylvania's retail natural gas market to assess whether effective competition exists and make recommendations for improvements to ensure that a properly functioning and workable competitive retail natural gas market operates in the state.⁵

As with the recently completed Investigation into Pennsylvania's Retail Electricity Market (otherwise referred to as RMI) at Docket No. I-2011-2237952, this investigation will proceed in two phases. The first phase will assess the status of the current retail gas market and explore what changes are needed to allow customers to best realize the benefits of choice. At the conclusion of the first phase, the Commission will initiate the second phase, headed by the Commission's Office of Competitive Market Oversight (OCMO). OCMO's charge will be to examine and address how to best resolve the issues raised and then how to implement the prudent changes identified to improve competition.

Accordingly, we are soliciting responses from interested parties to the following questions. All responses are due on December 12, 2013:

1. What is the current status of retail natural gas competition for customers, by class and by service territory, and for NGSS? For each such customer class and service territory, how accessible are competitive suppliers?
2. Are currently effective NGDC rates properly structured to reflect the separation between the costs of the NGDC's role as a distribution utility and its role as a Supplier of Last Resort (SOLR)?
3. Does the existing market design of NGDCs serving as the SOLR present barriers that inhibit customer choice or prevent suppliers from fully participating in the retail market?
4. Should NGDCs continue in the role of SOLR?
5. Are there enhancements and updates to the current SOLR model that would further improve the state of competition within the retail natural gas market?
 - a. Are there opportunities through the potential restructuring of the SOLR model and retail gas market to encourage expansion of natural gas distribution facilities into areas of the Commonwealth that do not currently have access to natural gas facilities?
 - b. Are there changes to the retail natural gas market that the Commission can undertake *de novo* through regulation or policy that would promote retail natural gas competition?
 - c. Are there changes to the retail natural gas market that the Commission can undertake *de novo* through regulation or policy that would remove barriers to retail natural gas competition?

⁵ This retail market investigation is being conducted in lieu of the formal SEARCH milestone review that had been scheduled to begin this month as part of our SEARCH Action plan.

- d. What legislative changes should be made to further improve the retail natural gas market in Pennsylvania?
6. Are there outcomes from the Commission's recently completed electric RMI that would be applicable and useful to implement in the retail gas market? To the extent possible, please provide comments on the following topics:
 - a. Seamless Move
 - b. Accelerated Switching Timeframes
 - c. Standard Offer Program
 - d. Low-income customer shopping
 - e. Expanded Consumer Education about shopping
 - f. Any additional RMI initiative that would translate well to the retail natural gas market
7. To take advantage of the opportunity that is present through the Marcellus Shale resource, should NGDCs and NGSs be encouraged to explore opportunities with natural gas exploration and production companies?
8. Recognizing that the Commission withdrew the proposed rulemaking addressing NGDC business practices at Docket No. L-2009-2069117 and committed to commencing a new proposed rulemaking on these issues, please provide comments on the continued need to address standardized supplier tariffs and business practices with regard to imbalance trading, tolerance bands, cash out and penalties, nominations and capacity.

Upon review of the comments received in response to the above questions, OCMO is directed to provide recommendations to the Commission outlining specific courses of action to be taken by the Commission to improve the competitiveness of Pennsylvania's retail gas market. As necessary, the Commission will conduct *en banc* hearings to elicit further information from parties other than that contained in comments.

THEREFORE, WE MOVE THAT:

1. The Office of Competitive Market Oversight prepare an Opinion and Order consistent with this Motion.

DATE: September 12, 2013


PAMELA A. WITMER
COMMISSIONER


JAMES H. CAWLEY
COMMISSIONER