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December 12, 2013

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

**RE: INVESTIGATION OF PENNSYLVANIA'S RETAIL NATURAL GAS SUPPLY  
MARKET Docket No. I-2013-2381742**

Dear Secretary Chiavetta:

Enclosed for filing please find the Comments of the Energy Association of Pennsylvania in the above-referenced docket.

Sincerely,

A handwritten signature in blue ink that reads "Donna M. J. Clark".

Donna M. J. Clark  
Vice President and General Counsel

Enc.

**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation of Pennsylvania's  
Retail Natural Gas Supply Market

I-2013-2381742

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**Comments of the**  
**Energy Association of Pennsylvania**

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**I. INTRODUCTION**

On September 12, 2013, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) entered an Order initiating this “Investigation of Pennsylvania’s Retail Natural Gas Supply Market.” The Commission noted that the current proceeding is “being conducted in lieu of the formal SEARCH milestone review that had been scheduled to begin ... [in September 2012] as part of our SEARCH Action Plan.” Investigation Order at n. 5. The Final Order and Action Plan issued in 2008 as a result of the SEARCH proceeding established the Office of Competitive Market Oversight (“OCMO”), provided for the implementation of voluntary purchase of receivable programs and outlined three separate rulemakings as a roadmap offering “the greatest potential to eliminate or reduce market barriers, and thereby increase supplier participation in the marketplace.” Final Order and Action Plan, Docket I-00040103 at p. 6. In 2008, the Commission determined that “customer participation will increase only if there are more suppliers offering a variety of products to the market” and decided that consumer education activities as well as rule changes or new programs “such as seamless moves, customer referral programs and aggregation programs” would not be implemented at that point. Id. at n.6.

The majority of tasks outlined in the SEARCH Order have been accomplished: voluntary purchase of receivable programs are in place; two rulemaking proceedings have been finalized

and implemented;<sup>1</sup> and OCMO has assumed an essential role in the promotion of competitive retail electric and natural gas marketplaces. Further, and as a result of the collaborative efforts of natural gas suppliers (“NGSs”), natural gas distribution companies (“NGDCs”), the Office of Consumer Advocate (“OCA”), Commission staff and the Energy Association of Pennsylvania (“EAP” or “Association”), HB 1188 has been introduced and passed in the House. If enacted, this legislation would remove the statutory requirement of a migration rider from purchase gas cost rates, establish a uniform market based interest rate for over/under collections and provide for cost recovery on a full and current basis for expenses incurred to implement retail market enhancements ordered by the Commission. EAP believes that these efforts when fully effectuated will be an essential component of a properly functioning and workable competitive retail natural gas market in Pennsylvania. Concurrently, EAP recognizes and supports the current examination to make certain that retail customers can access the benefits afforded by the marketplace.

The Investigation Order provides that the investigation will proceed in two phases, similar to the manner in which the earlier Investigation of Pennsylvania’s Retail Electric Market<sup>2</sup> was conducted. The first phase of the Investigation will assess the current status of the market and explore what changes may be needed to assure that customers realize the benefits of choosing supply from an entity other than the natural gas utility. The second phase, headed by OCMO, will examine how to resolve issues identified in the first phase and implement reasonable changes to improve choice for retail customers participating in the natural gas competitive market in Pennsylvania. To begin the first phase, the Investigation Order seeks comments on eight listed questions regarding the status of gas competition and how it might be improved.

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<sup>1</sup> See Final Rulemaking Order Re: Licensing Requirements for NGSs, Docket L-2008-2069115 and Revised Final Rulemaking Order Re: NGDCs and Promotion of Competitive Retail Markets. A third proposed rulemaking concerning NGDC business practices at Docket L-2009-2069117 was withdrawn by the Commission.

<sup>2</sup> Docket I-2011-2237952.

The Association represents and promotes the interests of electric and natural gas distribution utilities operating in the Commonwealth. EAP respectfully submits these general comments to the Investigation Order on behalf of its NGDC members.<sup>3</sup> EAP will offer general comments, and defers to its members to respond specifically to the eight questions posed in the Investigation Order. Additionally and with respect to question six which identifies new programs or initiatives aimed at enticing retail consumers into the competitive marketplace, EAP supports further discussion focused on the value and possible means of implementing such practices with OCMO and other stakeholders.

## **II. GENERAL COMMENTS**

### **A. In providing supplier-of-last-resort (SOLR) service, NGDCs play a critical role in preserving reliability of gas service to customers that must be maintained.**

One of the main issues that is likely to be considered in this investigation is whether NGDCs should be removed from the SOLR role in order to encourage shopping and stimulate development of a more active retail gas supply market. Similarly, in the electric RMI, one of the main issues was whether EDCs should be removed from the default supplier role. Ultimately, the Commission recommended in that Investigation that EDCs be retained in the default supplier role; however, legislation has now been introduced in the Senate of Pennsylvania that would change the nature of default service (restricting it to a short-term service) and place EGSs in the default supplier role.<sup>4</sup>

In the gas industry, any policy decision to relieve NGDCs of their SOLR responsibility should take into account all of the ramifications that could flow from such a policy change. One

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<sup>3</sup> Columbia Gas of Pennsylvania, Inc.; Equitable Gas Company, LLC; Pike County Light & Power Company; National Fuel Gas Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company; Peoples TWP LLC; Philadelphia Gas Works; UGI Central Penn Gas, Inc.; UGI Penn Natural Gas, Inc.; UGI Utilities Inc.; and, Valley Energy Inc.

<sup>4</sup> See, Senate Bill 1121, Printer's No. 1463.

such ramification is the potential impact this could have on the reliability of gas service to small customers.

NGDCs currently play a necessary role in preserving reliability of service through the way they perform the SOLR function. The gas industry differs from the electric industry in that in the gas industry there is not an entity similar to PJM that is responsible for maintaining overall system reliability for an entire region. In the gas industry, NGDCs perform in a manner to preserve reliability, and this function must be maintained through any policy changes that are considered regarding SOLR service.

As discussed in the following section, NGDCs are obligated to project peak loads and plan for how the system will be operated to serve gas to meet those loads through transportation of gas on interstate pipelines – often requiring reservation of capacity on those pipelines, storage withdrawals, local production, and use of peaking supplies. To prevent reliability from deteriorating, some entity will have to perform these functions if NGDCs are removed from the SOLR role. If NGDCs are to continue performing these functions, statutory changes will be required to, among other things, provide a means to compensate NGDCs for providing the service.

**B. SOLR service is currently a heavily-regulated service provided by NGDCs and designed to provide small retail customers with a price that is attractive, competitive, and relatively stable, and major changes to SOLR service will require a legislative amendment.**

Under current law, it is clear that SOLR service is designed to provide small gas customers with an attractive product, and that any policy changes to transform SOLR service into a stopgap service for customers who are temporarily not purchasing gas supplies in the competitive retail gas market will require legislative changes.

The major policies regarding SOLR service are embedded in the Natural Gas Choice and Competition Act<sup>5</sup> (Competition Act) and other parts of the Public Utility Code. Under the Competition Act NGDCs “shall serve as the supplier of last resort for residential, small commercial, small industrial, and essential human needs customers. . .”<sup>6</sup> SOLR service has three components: service to customers who do not choose an alternative natural gas supplier (NGS), service to customers who have been refused service from an NGS, and service to customers whose NGS has failed to deliver its requirements.<sup>7</sup> The statute provides that NGDCs shall continue providing these services unless, at their discretion, they request and receive Commission approval to discontinue providing one or more of the services.<sup>8</sup> Five years after the effective date of the Act, any party may petition the Commission to become the SOLR except to serve customers who have not chosen an alternative NGS.<sup>9</sup>

The process under which NGDCs secure supplies to provide SOLR service is also set out in the Public Utility Code. NGDCs are required to pursue a “least cost fuel procurement policy, consistent with the utility’s obligation to provide safe, adequate and reliable service to its customers.”<sup>10</sup> NGDCs with annual gross intrastate revenues above \$40 million may file tariffs to establish a sliding scale of rates reflecting actual and projected increases or decreases in their natural gas costs.<sup>11</sup> Following such a filing, the Commission will conduct an investigation and hold hearings to review “supply plans” and “reliability plans” required under the statute.<sup>12</sup> In a nutshell, NGDCs must show the steps they took to secure the lowest cost supplies and must detail how they have arranged transportation capacity, storage, peaking or on-system

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<sup>5</sup> 66 Pa.C.S. § 2202 et seq.

<sup>6</sup> 66 Pa.C.S. § 2207 (a) (1).

<sup>7</sup> 66 Pa.C.S. § 2207 (a) (2).

<sup>8</sup> 66 Pa.C.S. § 2207 (e).

<sup>9</sup> 66 Pa.C.S. § 2207 (h).

<sup>10</sup> 66 Pa.C.S. § 1318 (a).

<sup>11</sup> 66 Pa.C.S. § 1307 (f) (1).

<sup>12</sup> 66 Pa.C.S. § 1317 (c), (d).

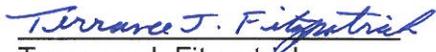
production to ensure deliverability of gas to meet projected peak day and seasonal requirements.<sup>13</sup>

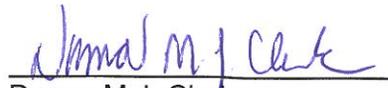
It is obvious from this summary review of the statutory requirements surrounding SOLR service that proposals to make substantial changes to this service, including removing NGDCs from the SOLR provider role, will require a statutory amendment. It is also obvious that, from a policy standpoint, there are pros and cons to making such changes. It is possible that removing NGDCs from the SOLR role would stimulate a more active market with more suppliers entering the market and more innovative service offerings. However, the downside to such a policy change is also apparent – some customers may prefer having a regulated option available from the NGDC that allows them to not become involved in the market. The weighing of these considerations is a matter for the judgment of the Pennsylvania General Assembly.

### III. CONCLUSION

EAP respectfully requests that the Commission consider the above comments as this investigation proceeds.

Respectfully submitted,

  
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Dated: December 12, 2013

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<sup>13</sup> *Id.*