

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION**

Investigation of Pennsylvania's  
Retail Natural Gas Supply Market

I-2013-2381742

**COMMENTS OF  
THE PENNSYLVANIA UTILITY LAW PROJECT  
TO  
ORDER ISSUED SEPTEMBER 12, 2013**



**PULP**

**PENNSYLVANIA  
UTILITY LAW PROJECT**

Harry S. Geller, Esq., PA ID: 22415  
Patrick M. Cicero, Esq., PA ID: 89039  
118 Locust Street  
Harrisburg, PA 17101  
Tel.: 717-236-9486  
Fax: 717-233-4088

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## INTRODUCTION

By Order of September 12, 2013, The Pennsylvania Public Utility Commission initiated a formal investigation into the current status of Pennsylvania's retail natural gas market to assess whether effective competition exists and to make recommendations for improvements to ensure that a properly functioning and workable competitive retail natural gas market operates in the state. The investigation is to be conducted in two phases. As part of the first phase of its investigation, the Commission posed eight questions and solicited comments from interested parties.

The Pennsylvania Utility Law Project ("PULP") appreciates the opportunity to provide comments to the Commission on its September 12, 2013 Order. PULP is a specialized statewide project of the Pennsylvania Legal Aid Network designated to assist low-income utility and energy residential consumers. For over 30 years PULP has represented the interests of low-income Pennsylvanians in energy and utility matters through direct representation, statewide advocacy, and support and assistance to the staff and clients of local legal aid programs, non-profits and community-based agencies. PULP staff have been actively involved in the recently completed Investigation into Pennsylvania's Retail Electricity Market (otherwise referred to as RMI) at Docket No. I-2011-2237952, the technical conferences hosted by OCMO, as well as each of the work groups and sub-group discussions affecting low-income utility consumers. In its Order, the Commission posed the question as to whether there are outcomes from the Commission's recently completed electric RMI that would be applicable and useful to implement in the retail gas market regarding low-income customer shopping. (Page 4, Question 6.d.) These comments are directed to that issue.

**There is a Need at the Outset of the Gas RMI to Review and Assess the Effect of Shopping on the Ability of the Low-Income Customer to Afford and Maintain Natural Gas Service**

Low-income utility customers are a distinct subgroup to be protected in the competitive retail marketplace. The Natural Gas Choice Act specifies that the Commission's actions in adopting rules, orders or policies and reviewing, assessing and approving each natural gas distribution company's restructuring filings, and overseeing the transition process and regulation of the restructured natural gas utility industry shall, at a minimum, continue the level and nature of the consumers protections, policies and services within its jurisdiction that are in existence as of the effective date of this chapter to assist low-income retail gas customers to afford natural gas services. 66 Pa. C.S. §2203. The Commission, in initiating its investigation into the retail competitive gas market, has therefore asked a critically important question: Are the outcomes of the recently completed Investigation into Pennsylvania's Retail Electricity Market regarding *low-income customer* shopping that would be applicable and useful to implement?

Although there are approximately 2 million low-income households (incomes at or below 150% of poverty) in the Commonwealth of Pennsylvania, and approximately 1.3 million of those are within the electric service territories, there has not yet been a full review or assessment conducted within the scope of the electric RMI on the ability of low-income customers who have shopped to continue to afford and maintain electric services. The same is true for the natural gas market. Since a properly functioning and workable competitive retail natural gas market must, at a minimum, maintain the level of protections and policies to enable low-income consumers to afford natural gas service as existed prior to competition, the beginning of the natural gas RMI is the appropriate time to conduct such a review and assessment.

This is not a speculative concern. The electric RMI has provided a basis to proceed with caution and fully understand the ability of CAP customers to afford electric rates in the competitive environment. In one service territory, an ALJ has found that as many as 73% of the Company's customer assistance program (CAP) customers being served by an EGS were being charged a higher price than the Price to Compare ("PTC"). Unfortunately, the situation of a high number of CAP customers paying rates higher than the PTC does not appear to be unique to one company. Before embarking on a similar path with natural gas, the Commission should take this opportunity to learn from that outcome and conduct a broad based review and analysis as to the effect of shopping on CAP customers' ability to afford and maintain service.

Although attention has been focused by the Commission within the electric RMI on the process of expediting CAP customer entrance into the competitive electric market, most low-income households are not enrolled in a CAP program and, consequently pay bills at full-tariff rates. PULP is pleased that the Commission is beginning its Gas RMI with a question focused on all low-income consumers since the statutory responsibility of the Commission under the Choice Act is to all low-income households, not just to those enrolled in CAP. While it is incumbent on the Commission to review and analyze the experience of and effect on CAP customers as a result of shopping, this obligation is independent from and in addition to assessing the effect of shopping on all low-income customers, including those not in CAP. PULP therefore recommends that prior to expediting or encouraging further low-income customer retail natural gas shopping, that the Commission fully review and assess the effect of shopping by low-income electric and natural gas customers on their ability to afford those services.

## **There Is a Need at the Outset of the Gas RMI to Require Clear Statewide Shopping Protections for Low-Income Customers**

Low-Income household income (150% FPL or below) is simply inadequate to pay all necessary expenses. The benchmark most often used by low-income advocates is the Pennsylvania Self-Sufficiency Standard published periodically by the nonprofit Pathways PA. The Self-Sufficiency Standard is a tool developed by Diana Pearce, the director of the Center for Women's Welfare at the University of Washington, in order to provide fact-based pictures of the true cost of living for families of different sizes, living in different geographic regions of the country. For years, Pathways PA, working with the Center for Women's Welfare, has been responsible for publishing and updating the Self-Sufficiency Standard applicable to the different counties of Pennsylvania. The self-sufficiency standard varies dramatically within Pennsylvania depending on geographic location and family size. Generally, however, since the cost of meeting basic needs in Pennsylvania for a one parent with one preschool child family is more than twice the household income of PA CAP it is not difficult to understand the economic vulnerability of these customers.<sup>1</sup>

Households at or below 150% of the federal poverty guideline lack sufficient income to pay for all of their essential needs including utilities. Before all of the bills are paid, low-income families scraping by routinely run out of money. Many of them cannot afford to pay for utility service because of the cost of competing essential needs like rent, food, water and medicine.

This economic vulnerability can also be seen when one compares the termination rates

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<sup>1</sup> The 2012 Overlooked and Undercounted study, which contains that most recent self-sufficiency analysis for Pennsylvania, can be found here: <http://pathwayspa.org/Overlooked%20and%20Undercounted%202012.pdf>  
For previous years self-sufficiency standards please visit the Pathways PA publications which is available here: <http://pathwayspa.org/publications.html>.

for residential customers as a whole with those for confirmed low-income customers, it is abundantly clear that confirmed low-income customers have much greater difficulty maintaining service. For example, the statewide termination rate for residential natural gas customers is 3.7% compared with a statewide rate of 11.65 for residential, confirmed low-income natural gas customers.<sup>2</sup>

During the electric RMI process the Commission attempted to address low-income customer shopping in a variety of ways including the convening of a number of work-groups. Unfortunately, no statewide determination of policy regarding low-income customer protections or CAP shopping rules emerged and policy determinations defaulted to each Default Service Plan proceeding. This ad hoc method has resulted in low-income consumers, especially CAP customers, being subject to very different shopping rules, payment arrangements and protections. Even at the submission deadline for these comments, the shopping rules for CAP customers in the PECO and Duquesne service territories remain unresolved.

PULP submits that the natural gas RMI provides the Commission with the opportunity to avoid such an outcome, to avoid disparate treatment of low-income consumers from one-service territory to another, and to develop, in phase one, statewide policies and regulations to enable low-income shopping consumers to afford natural gas service. Unless a full panoply of protections are made uniform and ensured throughout the Commonwealth as a first step in the natural gas RMI, low-income customers in each service territory will continue to be at risk of unaffordable rates and service termination as they shop.

In order to adequately protect low-income customers and universal service program

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<sup>2</sup> 2012 Report of Universal Service Programs & Collections Performance of the Pennsylvania Electric Distribution Companies & Natural Gas Distribution Companies at 9-10. Available at: [http://www.puc.state.pa.us/General/publications\\_reports/pdf/EDC\\_NGDC\\_UniServ\\_Rpt2012.pdf](http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2012.pdf)

participants, as well as other residential ratepayers, PULP respectfully submits that the Commission develop statewide uniform shopping rules for CAP and other low-income customers within the first phase of the gas RMI. Below is a list of some of the significant concerns and potential uniform protections::

1. Low-income and CAP shopping customers must be assured that the competitive price charged to them is always below the PTC;
2. Low-income and CAP shopping customers should be able to switch to an alternate supplier or back to the Default Service Provider at any time without any fee or penalty;
3. Low-income and CAP shopping customers should be exempt from security or other deposit requirements;
4. Written information regarding the rights and responsibilities of CAP customers who shop must be provided by the NGDC or DSP CAP service provider to all confirmed low-income customers in a manner which is in plain language, clear, and complete at the following times:
  - a. Upon entry, reentry into and recertification for CAP;
  - b. Upon any solicitation by a competitive supplier;
  - c. Upon the NGDC or DSP receiving notice of the confirmed low income customer's request to switch to a competitive provider.

## **CONCLUSION**

In Conclusion, PULP thanks the Commission for the opportunity to submit these comments and strongly recommends that as a result of the outcomes experienced in the electric RMI, the Commission:

1. Review and evaluate the effect of shopping on the ability of low-income customers to afford utility service and;
2. Develop statewide uniform rules and protections for low-income and CAP customers who participate in the competitive retail markets.

PULP remains ready to work collaboratively with the Commission and other interested parties to ensure that a healthy competitive market exists within Pennsylvania in which low-income customers are protected and provided service at rates they can afford and in a manner that is safe, reliable, and stable.

Respectfully Submitted,  
Pennsylvania Utility Law Project



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Harry S. Geller, Esq., PA ID: 22415  
Patrick M. Cicero, Esq., PA ID: 89039  
118 Locust Street  
Harrisburg, PA 17101  
Tel.: 717-236-9486  
Fax: 717-233-4088  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)

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