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## VIA E-FILING

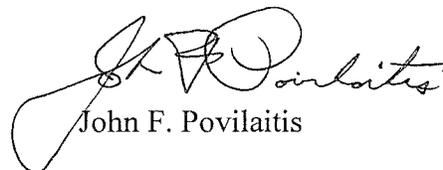
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Re: Investigation of Pennsylvania's Retail Natural Gas Supply Market;  
Docket No. I-2013-2381742 – **Comments of the Retail Energy Supply  
Association on Disclosure Requirements and the Account Number Access  
Mechanism.**

Dear Secretary Chiavetta:

On behalf of the **Retail Energy Supply Association** (“RESA”), enclosed for electronic filing are the Comments of RESA on the issues of disclosure requirements and the account number access mechanism for the above-captioned docket. Please contact me if you have any questions regarding the forgoing matter.

Very truly yours,



John F. Povilaitis

JP/bb

Enclosure

cc: Dan Mumford, Deputy Director, OCMO (*via email*)  
H. Kirk House, Director, OCMO (*via email*)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation of Pennsylvania's  
Retail Natural Gas Supply Market

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Docket No. I-2013-2381742

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COMMENTS  
ON BEHALF OF THE  
RETAIL ENERGY SUPPLY ASSOCIATION ON DISCLOSURE REQUIREMENTS  
AND ACCOUNT NUMBER ACCESS MECHANISM

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Attorneys for Retail Energy Supply Association

Dated: February 2, 2015

## **I. INTRODUCTION**

By Final Order entered on December 18, 2014, the Pennsylvania Public Utility Commission (“Commission”) sought comments regarding Natural Gas Supplier disclosure requirements and the development of account number access mechanisms. The Commission solicited these comments in the context of its natural gas retail markets investigation (“Gas RMI”), which is aimed at implementing enhancements to the retail natural gas market. The Retail Energy Supply Association (“RESA”)<sup>1</sup> appreciates the opportunity to provide comments and commends the Commission for its efforts to enhance the functioning of the retail natural gas market so that consumers can fully realize the benefits of competition.

Understanding the importance of ensuring that consumers are adequately informed about their products (especially variable priced products) and contract renewal terms, RESA is generally supportive of changes to the existing regulations that are intended to increase transparency and improve the content of information that is provided to consumers. However, there are some issues, such as the contract summaries required of electric generation suppliers (EGSs), where RESA urges the Commission to balance the provision of additional information, with the need for simple, clear and unambiguous disclosures. Imposing excessive disclosure requirements on natural gas suppliers (“NGSs”) could have the unintended consequence of forcing NGSs to issue disclosure statements that may confuse rather than inform customers. RESA also urges the Commission to modernize the rules so that NGSs may send all contract

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<sup>1</sup> RESA’s members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Dynegy Energy Services; GDF SUEZ Energy Resources NA, Inc.; IDT Energy, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; Nordic Energy Services, LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

renewal notices electronically, if the consumer consents to receiving notice in this manner, and may send them closer to the time when the contract is expiring or the terms are changing.

Additionally, RESA is supportive of all efforts that streamline the enrollment process and make it easier for customers to switch to an NGS. To that end, a tool such as the account number access mechanism that is being deployed for the electric industry would be beneficial for the natural gas retail market by allowing customers to enroll with an NGS without producing their account number.

## **II. RESA COMMENTS**

### **A. Disclosure Requirements**

By the Final Order, the Commission made disclosure requirements, including customer information disclosure statements and contract renewal notices, a high priority, noting that this action requires the initiation of a proposed rulemaking which may take several months. Referring to recent measures in the electric industry to enhance disclosure requirements imposed on EGSs, primarily for variable priced products,<sup>2</sup> the Commission specifically sought comments on the following areas:

- Enhanced disclosure concerning variable prices; explanation and disclosure of any limits or caps;
- Explicit statement of no limits if there are no limits to a variable price;
- The price charged for the first billing period (a “starting price” if the price is variable);
- Explanation of when the customer becomes aware of their variable price for the billing period (before the billing period, at the time of billing, etc.);
- The provision of historical pricing information for variable products. If so – how much history and how should it be made available to consumers?

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<sup>2</sup> See *Final-Omitted Rulemaking Order: Rulemaking to Amend the Provisions of 52 Pa. Code, Section 545. Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10- Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms*, Docket No. L-2014-2409385 (Order entered April 3, 2014).

- The use of a contract summary that includes, in a simple, easy-to-read format the key contract provisions. If so, what format is needed and what provisions should be included – keeping in mind that a summary, to be effective, has to be brief, in plain language, and prominent?
- What changes, if any, are needed to contract expiration notices and the rules that should apply if a consumer fails to respond to the notices? Please refer specifically to 52 Pa. Code § 62.75(g)(1) and (2). Are additional rules needed for those consumers that are rolled onto variable-priced products upon expiration of their original contract similar to what is now in place for the electric industry, such as prior notice of price changes?

1. Relationship of NGS Disclosure Requirements to EGS Disclosures.

RESA is supportive of uniformity between EGS and NGS disclosure requirements and contract renewal notice rules. However, rather than simply imposing the EGS requirements on NGSs, RESA would prefer to establish an acceptable set of requirements appropriate for the natural gas industry and then harmonize any important issues with the electric industry after more retail market experience is gained through subsequent proceedings. While RESA generally agrees that more information being provided to consumers is better because it results in more informed consumers and greater overall satisfaction with the retail market, it would be prudent to further refine some of the requirements imposed by the Commission on the electric industry before expanding them to the natural gas market.

2. Price Related Requirements.

In the interest of providing greater transparency to consumers regarding variable pricing, RESA supports inclusion in the disclosure statements for residential and small business customers the initial price and the conditions of price variability, which would be a general indicator of the basis on which prices will vary. RESA opposes any requirement for the use of an explicit formula or price index, which would unduly restrict an NGS's flexibility to competitively price its product and could unfairly signal its price-setting method to competitors.

To ensure clarity on this issue, the existing natural gas regulations should be revised to delete the language requiring a “specific prescribed variable price methodology,” which would make them consistent with the corresponding electric regulation. 52 Pa. Code § 62.75(c)(2)(i); 52 Pa. Code § 54.5(c)(2)(i).

As to the description of limits on price variability, RESA agrees with the Commission’s regulations for the electric industry requiring a clear explanation of any limits, such as a specific cap or percentage increase, as well as a clear and conspicuous statement that there is no limit if that is the case. RESA would be opposed, however, to any requirement for an overall hard limit or cap on a variable price.

3. Historical Pricing.

Regarding the rule in the electric industry for the inclusion of 24 months of average historical pricing in connection with variable price contracts, RESA does not support this approach for the natural gas industry in those situations where the NGS offers an indexed product that is based on a pre-defined pricing formula or publicly available market indices. Provided that the NGS in that situation gives the consumer the tools necessary to calculate the price independently, it should not be required to provide historical pricing information, which would not necessarily be useful to the customer, whose main concern is discerning forward prices, and would likely only create more confusion to the customer while increasing costs for the NGS to gather and accurately maintain this information. Historic prices are also a subject where it is unlikely the NGS could meaningfully respond to customer questions that seek to explore the circumstances of prior price fluctuations.

4. Contract Summary.

While RESA supports the provision of clear and unambiguous information to customers regarding their natural gas service, RESA stresses that if contract summaries are ordered to be

provided by NGSs, the information therein should be expressed plainly and simply so as to not confuse the customer. The Commission's template for EGS contract summaries include various fields for inputs by EGS, including fields for contract terms and renewal terms. However, in the case of a month to month variable contract, simply filling out the contract terms field in a clear and understandable manner should effectively explain that a customer will be renewed on a month to month basis. Requiring suppliers to then fill the renewal terms field with additional language conveying the same point a second time may only serve to confuse the customer.

5. Notice of Contract Expiration.

With respect to contract expiration notices, RESA fully supports shorter time periods for sending out initial notices and options notices when a contract is nearing the expiration date or the NGS is proposing changes to the terms of service. Currently, the Commission's regulations applicable to NGSs require notices at about 90 days and 60 days prior to the expiration date of a fixed term contract. 52 Pa. Code § 62.75(g)(1). Those time periods should be revised to mirror the requirements in the electric industry so that an initial notice is sent to the customer 45-60 days prior to the expiration date of the contract or the effective date of the proposed change in terms; an options notice should then be sent to the customer 30 days prior to the expiration date of the contract or the effective date of the proposed change in terms. 52 Pa. Code § 54.10.

By implementing the rules applicable to EGSs in the natural gas industry, the Commission can avoid a situation where customers who are receiving both electric and natural gas services from a combined NGS/EGS become frustrated and confused by multiple notices at different times. Moreover, in the absence of such uniformity, NGSs serving in a combined role will be subject to an overly burdensome administrative process, which discourages the offering of combined products and otherwise interferes with the development of a competitive retail energy market. Also, shortening the notice time periods is consistent with the Commission's

goals of ensuring that consumers are aware of upcoming changes and that they respond timely and appropriately to contract renewal notices. Notices that are received two and three months prior to an impending change are likely to be overlooked by consumers who do not have any sense of urgency to react to the information.

6. Method of Providing Notice.

While the Commission's electric regulations permit the initial notice to be sent electronically if the customer agrees, those provisions require the options notice to be sent by first class mail. 52 Pa. Code § 54.10(2). RESA urges the Commission to allow NGS options notices to be sent electronically, provided that the customer agrees. In today's world, electronic notices are used for many legal purposes, such changes in credit card terms, for the convenience of consumers who are inundated by snail mail and have become accustomed to receiving information electronically. Embedding in regulations a "first class mail" requirement that is likely to be outdated in the very near future would not be prudent. Arguably, first class mail is already less effective than electronic notices for many customers, who use their smartphones and other devices for a variety of purposes, including banking and paying bills. Whether to receive the options notice electronically or by first class mail should be the choice of the consumer, not the Commission.

7. Content of Notice.

As to the content of the initial and options notices for residential and small business customers, RESA is generally supportive of the requirements contained in the electric regulations, with one major exception. Specifically, RESA opposes the requirement for a 30-day advance notice of a price change to a customer who is on a fixed price contract that automatically renews to a month-to-month product, where the price is potentially changing every month. 52 Pa. Code § 54.10(2)(A)(I). Even if NGSs were able to accomplish the formidable

task of accurately forecasting index prices far enough in advance to satisfy the 30-day notice requirement, the cost of doing a mailing would be extremely high. It would also likely be burdensome and confusing to the customer who is being inundated with information on a regular basis.

8. NGS Options if Notice Ignored.

Regarding the rules that should be implemented to address the situation when a customer fails to respond to either the initial or options notice, RESA supports the approach adopted by the Commission for the electric industry. 52 Pa. Code § 54.10(3). Under those circumstances, it is reasonable for a fixed term contract to be converted to a month-to-month contract or a fixed term contract, provided the customer may cancel at any time without paying a cancellation fee. It is also appropriate for the converted contract to remain in place until the customer chooses another product from the same NGS, enrolls with a different NGS or returns to the supplier of last resort.

**B. Account Number Access Mechanism**

By the Final Order, the Commission also made the development of account number access mechanisms a priority, noting the benefits of facilitating supplier marketing in public places like malls and at community events where consumers are unlikely to have their utility bill or account number with them. The Commission noted that electric distribution companies (“EDCs”) are in the process of developing such mechanisms and some have already made them available to EGSs. Recognizing that many of the implementation details have been addressed in the electric industry and that it may take some time for the natural gas distribution companies (“NGDCs”) to deploy, the Commission wisely commenced exploration of this tool immediately.

The Commission expressed a particular interest in receiving comments in the following areas:

- The technological platform to be used. EDCs were directed to develop web-based portals. Is the same appropriate for the natural gas industry or are their alternatives we should consider?
- What security mechanisms should be utilized to protect consumer privacy? This includes the possible use of password-protections, and minimum customer information requirements for using the mechanism (customer's full name, service street address and five-digit postal code, etc.). The use of customer photo identification and a letters of authorization should also be addressed.
- Should the mechanisms only be available at public locations, not consumer homes or businesses? And if so, how should this be documented?
- What capabilities should be required of the mechanism to track the usage of the system and identification of users? What should be the record retention requirement for this information - three years as in the electric industry?

RESA is very supportive of implementing this mechanism in the natural gas industry and commends the Commission for moving forward quickly with this proposal. As recognized by the Commission, such a tool would streamline the enrollment process and alleviate the need for a customer to take additional steps at a later time to complete the transaction. Since the consumer protections and protocols have been established by the Commission for the electric industry, this is a tool that can easily be adapted for use by NGSs.

1. Password Protected Portals.

Specifically, RESA proposes that password-protected website portals be developed so that NGSs may request an account number from the NGDC upon obtaining an executed letter of authorization from the customer, which the NGSs is required to retain but not produce to the NGDC, along with the customer's name, service address and photo identification. *See EDC Customer Account Number Access Mechanism*, Docket No. M-2013-2355751 (Final Order adopted July 16, 2013). These safeguards are sufficient to ensure that a customer's account numbers is only provided to the NGS with the customer's consent.

2. Availability of Access Mechanism to NGSs.

Additionally, while the Commission limited its use of this access mechanism in the electric industry to sales in public venues, RESA suggests that the Commission consider allowing this tool to be utilized for all sales since it eases the enrollment process and is more convenient for customers even when they are at home and may not have their bill readily available. With all of the protocols established by the Commission to ensure sufficient consumer protections, there is no reason not to expand its use to streamline the enrollment process regardless of the type of sale.

**III. CONCLUSION**

RESA urges the Commission to adopt the recommendations set forth in these comments to enhance the transparency of information provided to consumers, modernize the rules applicable to renewal notices, promote consistency between the natural gas and electric competitive retail markets and streamline the enrollment process for the convenience of consumers so they can more easily access competitive offerings.

Respectfully submitted,

Dated: February 2, 2015

  
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