**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held October 25, 2018

Commissioners Present:

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| Gladys M. Brown, Chairman | |
| Andrew G. Place, Vice Chairman | |
| Norman J. Kennard  David W. Sweet | |
| John F. Coleman, Jr |

Investigation of Pennsylvania’s I-2013-2381742

Retail Natural Gas Supply Market -

Interim Guidelines Regarding Standards

For Changing a Customer’s Natural Gas Supplier

**TENTATIVE ORDER**

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) is a recommendation from the Commission’s Office of Competitive Market Oversight (OCMO) to continue the five-day waiting period when a customer chooses a natural gas supplier (NGS) or returns to natural gas distribution company (NGDC) service and, therefore, to maintain the waiver of the Commission’s regulations at 52 Pa. Code §§ 59.93(2) (relating to customer contacts with NGSs) and 59.94 (relating to time frames for switching), to the extent necessary. Specifically, OCMO recommends that the waivers of this Commission’s regulations at 52 Pa. Code §§ 59.93(2) and 59.94 be extended for an additional three years to allow for the potential revision of these regulations.

# BACKGROUND

Based on electric customer complaints and supplier concerns, as well as a review of laws, regulations and electric distribution company (EDC) and electric generation supplier (EGS) procedures, in October of 2012, this Commission determined that interim guidelines were necessary to facilitate the timely transfer of a customer’s account from EDC default service to an EGS, from one EGS to another, or from an EGS back to EDC default service.[[1]](#footnote-2) Specifically, we found that the 16- to 45-day timeframe to switch a customer’s account led to customer frustration, disappointment and a negative opinion of electric competition.[[2]](#footnote-3) Based on these concerns, the Commission provided for, among other things, an interim guideline to reduce the confirmation period provided to customers upon an EDC’s receipt of a switch request.[[3]](#footnote-4) We found that this interim guideline would provide temporary relief of customer dissatisfaction with switching timeframes while maintaining due regard for the Commonwealth Documents Law. *See* 45 P.S. §§ 1102 *et seq*. This Commission recognized in the Guidelines Final Order that more substantial actions should be reserved for a rulemaking process and, therefore, narrowed the application of its interim guidelines to a three-year period.[[4]](#footnote-5)

In our Guidelines Final Order, this Commission also addressed the applicability of its interim guidelines to the natural gas market.[[5]](#footnote-6) We noted the value in maintaining similar rules between the electric and natural gas industries in an effort to reduce confusion and frustration between the customer, supplier and utility, especially in instances where a utility provides both natural gas and electricity services.[[6]](#footnote-7) Accordingly, we implemented a waiver of 52 Pa. Code §§ 59.93(2) and 59.94, to the extent necessary, to provide for a five-day waiting period for customers switching from an NGDC’s service to an NGS, from one NGS to another, or from an NGS to NGDC service. The regulation, 52 Pa. Code § 59.93(2), states:

Upon receipt of this notification, the NGDC shall send the NGDC ratepayer of record a confirmation letter noting the proposed change of NGS. This letter shall include notice of a 10-day waiting period in which the order may be canceled before the change of the NGS takes place. The notice shall include the date service with the new NGS will begin unless the customer contacts the NGDC to cancel the change. The 10-day waiting period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer’s selection of a NGS.

Additionally, 52 Pa. Code § 59.94 states:

When a customer has provided the NGS with oral confirmation or written authorization to change NGSs, the NGDC shall make the change at the beginning of the first feasible billing period following the 10-day waiting period, as prescribed in § 59.93 (relating to customer contacts with NGSs).

In waiving these regulations, the Commission’s interim guideline provided the following:

Upon receipt of the notification required by 52 Pa. Code § 59.93(1), the NGDC shall send the NGDC ratepayer of record a confirmation letter noting the proposed change of NGS. This letter should include notice of a 5-day waiting period in which the order may be canceled before the change of the NGS takes place. The notice shall include the date service with the new NGS will begin unless the customer contacts the NGDC to cancel the change. The 5-day waiting period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer’s selection of an NGS.

Guidelines Final Order at 49.

With a September 17, 2015 Tentative Order,[[7]](#footnote-8) the Commission sought to extend the waivers of its regulations at 52 Pa. Code §§ 59.93(2) and 59.94, to the extent necessary, and to maintain and continue the five-day waiting period for a duration of three years through the end of October 2018. Parties were provided ten days to file any adverse comments to the Commission’s proposal. With the absence of any adverse comments, a Final Order[[8]](#footnote-9) was issued on October 5, 2015 extending the guidelines to October 2018.

On December 22, 2016, the Commission adopted an Advanced Notice of Proposed Rulemaking (ANOPR) to solicit comments about amending and adding to the provisions of 52 Pa. Code §§ 59.91 - 59.99 regarding standards for changing a Customer's natural gas supplier.[[9]](#footnote-10) These regulations address the process for transferring a customer’s account from a service of last resort (SOLR) provider to a competitive natural gas supplier (NGS or supplier), from one supplier to another supplier and from a supplier to SOLR service. The ANOPR was followed by an April 20, 2017 Order (April 2017 Order) seeking additional comment,[[10]](#footnote-11) then by a March 29, 2018 in-person Technical Conference (March 2018 Technical Conference).[[11]](#footnote-12) Upon review and consideration of the comments filed in response to the ANOPR, the April 2017 Order and discussion at the March 2018 Technical Conference, the Commission will soon be proposing regulatory changes intended to accelerate this process while preserving safeguards to prevent the unauthorized switching of a customer’s account, also known as “slamming.”

# DISCUSSION

While the Guidelines Final Order provided a sunset date of October 25, 2018 for the interim guidelines, we believe that another extension of these guidelines during the pendency of the NGS switching rulemaking is warranted. This Commission stresses the need to move forward in improving switching timeframes and notes that reverting from the five-day timeframe to the ten-day period outlined in our current regulations would be counterproductive, confusing and lead to renewed customer frustration with the natural gas supply market. Additionally, to date, this Commission has not received any complaints, concerns or suggestions of problems with the existing five-day waiting period.

Therefore, we propose a continuation of the waivers of 52 Pa. Code §§ 59.93(2) and 59.94, to the extent necessary, to continue the five-day waiting period for an additional three years through October 25, 2021. The Commission believes it is appropriate to maintain these interim guidelines while the NGS switching rulemaking proceeds and that this timeframe will allow the Commission to complete the rulemaking that will revise our regulations at 52 Pa. Code §§ 59.91-59.99.

# CONCLUSION

With this Tentative Order, the Commission seeks to extend the waivers of its regulations at 52 Pa. Code §§ 59.93(2) and 59.94, to the extent necessary, and to maintain and continue the five-day waiting period for a duration of three years through the end of October 2021 to allow for the completion of the NGS switching rulemaking at Docket No. L-2016-2577413. Parties may provide comments within ten days of the entry date of this Tentative Order.[[12]](#footnote-13) In the absence of any adverse comments, this Tentative Order will become final without further Commission action.

**THEREFORE,**

**IT IS ORDERED:**

1. That this Tentative Order shall be served on all jurisdictional Natural Gas Distribution Companies, all licensed Natural Gas Suppliers, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the parties who filed comments at Docket Nos. I-2013-2381742, M-2011-2270442, and L-2016-2577413.

2. That interested parties shall have 10 days from the entry date of this Tentative Order to file written comments referencing Docket Number I-2013-2381742 with the Pennsylvania Public Utility Commission, Attention: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. Comments may also be filed electronically through the Commission’s e-File System.

3. That, absent any adverse comments, this Order shall become final without further Commission action.

4. That, absent any adverse comments, the existing waiver of Sections 59.93(2) and 59.94 of the Commission’s regulations in Title 52 of the Pennsylvania Code, 52 Pa. Code §§ 59.93(2) and 59.94 as set forth in this Order and Appendix A, is continued for three years until October 25, 2021.

5. That a copy of this Tentative Order shall be posted on the Commission’s website at the Office of Competitive Market Oversight’s web page.

6. That the Office of Competitive Market Oversight shall electronically serve a copy of this Tentative Opinion and Order on all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity.

7. That the contact person for technical issues related to this Tentative Order is Daniel Mumford, 717-783-1957 or [dmumford@pa.gov](mailto:dmumford@pa.gov). That the contact person for legal issues related to this Tentative Order is Kriss Brown, 717-787-4518 or kribrown@pa.gov.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: October 25, 2018

ORDER ENTERED: October 25, 2018

**APPENDIX A**

#### A. Customer contacts with NGSs.

When a contact occurs between a customer and an NGS to request a change of the NGS, upon receiving direct oral confirmation or written authorization from the customer to change the NGS, the customer’s new NGS shall:

   (1)  Notify the NGDC of the customer’s NGS selection by the end of the next business day following completion of the application process. The NGDC shall verify the accuracy of the information provided by the NGS by matching at least two data elements such as name and account number, or address and account number, with NGDC records.

   (2)  Upon receipt of this notification, the NGDC shall send the NGDC ratepayer of record a confirmation letter noting the proposed change of NGS. This letter should include notice of a 5-day waiting period in which the order may be canceled before the change of the NGS takes place. The notice shall include the date service with the new NGS will begin unless the customer contacts the NGDC to cancel the change. The 5-day waiting period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer’s selection of a NGS.

#### B. Time-frame requirement.

When a customer has provided the NGS with oral confirmation or written authorization to change NGSs, the NGDC shall make the change at the beginning of the first feasible billing period following the 5-day waiting period, as prescribed in A(2) (relating to customer contacts with NGSs).

1. *See Interim Guidelines Regarding Standards for Changing a Customer’s Electricity Generation Supplier* Final Order, Docket No. M-2011-2270442 (Order entered Oct. 25, 2012) (hereinafter Guidelines Final Order). [↑](#footnote-ref-2)
2. *Id.* at 3. [↑](#footnote-ref-3)
3. *Id.* at 47. [↑](#footnote-ref-4)
4. *Id.* [↑](#footnote-ref-5)
5. *See* Guidelines Final Order at 48-49. [↑](#footnote-ref-6)
6. *Id.* at 49. [↑](#footnote-ref-7)
7. *See Investigation of Pennsylvania’s Retail Natural Gas Supply Market - Interim Guidelines Regarding Standards*

   *For Changing a Customer’s Natural Gas Supplier*, Docket No. I-2013-2381742 (Order Entered September 17, 2015).

   [↑](#footnote-ref-8)
8. *See Final Order re Investigation of Pennsylvania’s Retail Natural Gas Supply Market - Interim Guidelines Regarding Standards For Changing a Customer’s Natural Gas Supplier*, Docket No. I-2013-2381742 (Order Entered October 5, 2015). [↑](#footnote-ref-9)
9. *See* *Advanced Notice of Proposed Rulemaking to Amend the Provisions of 52 Pa. Code Chapter 59 Regulations Regarding Standards for changing a Customer's Natural Gas Supplier,* Docket L-2016-2577413(Order entered December 22, 2016).   
    [↑](#footnote-ref-10)
10. *See Order re Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 59 Regulations Regarding Standards For Changing a Customer’s Natural Gas Supplier*. Docket L-2016-2577413 (Order entered April 20, 2017).

    [↑](#footnote-ref-11)
11. *See* the February 27, 2018 Secretarial Letter announcing the Natural Gas Technical Conference at Docket Nos. L‑2016‑2577413 and L‑2017‑2619223. [↑](#footnote-ref-12)
12. Given the entry date of this Tentative Order and the sunset date of the existing waiver, the Commission finds it necessary for transitional clarity to maintain the existing waiver status during our review of any potentially submitted adverse comments up until issuance of a Final Order. If no adverse comments are received the existing waiver will be continued seamlessly, without any gap in waiver circumstances. [↑](#footnote-ref-13)