

March 8, 2006

VIA EXPRESS MAIL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Implementation of the Alternative Energy Portfolio Standards
Act of 2004, Docket No. M-00051865**

**Rulemaking Re Electric Distribution Companies' Obligation to
Serve Retail Customers at the Conclusion of the Transition Period
Pursuant to 66 Pa. C.S. § 2807(e)(2), Docket No. L-00040169**

Dear Secretary McNulty:

Enclosed for filing please find an and original and fifteen copies of the comments of UGI Utilities, Inc. – Electric Division. A copy of these comments has also been sent electronically to Carrie Beale at cbeale@state.pa.us.

Should you have any questions concerning this filing, please feel free to contact me.

Very truly yours,

Mark C. Morrow

Counsel for UGI Utilities, Inc. –
Electric Division

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Alternative Energy Portfolio Standards Act of 2004	:	Docket No. M-00051865
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Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. § 2807(e)(2)	:	Docket No. L-00040169
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**COMMENTS OF UGI UTILITIES, INC. -
ELECTRIC DIVISION**

UGI Utilities, Inc. – Electric Division (“UGI”) appreciates this opportunity to submit comments in response to the Commission’s February 8, 2006 Secretarial letter issued at the above dockets. These comments are intended to supplement the comments filed by the Energy Association of Pennsylvania (“EAP”) in this matter, and will not address all of the questions addressed in those comments.

- 1. Should Act 213 cost recovery be addressed in the Default Service regulations as opposed to a separate rulemaking? Is it necessary to consider Act 213 cost recovery regulations on a different time frame in order to encourage development of alternative energy resources during the “cost recovery period”?**

UGI agrees with EAPA’s comments that AEPS Act rules, including cost recovery, must be established quickly in order to foster the development of alternative energy resources and to provide EDCs and EGSs with certainty regarding the “rules of the road”. However, UGI does not agree that development of default service rules need to proceed along the same pace as AEPS rules, and recommends that default service rules

be developed when more experience can be gleaned from other “choice” states’ default service programs and when more customers are no longer subject to the generation rate caps imposed during the transition period.

2. Do the prevailing market conditions require long-term contracts to initiate development of alternative energy resources? May Default Service Providers employ long-term fixed price contracts to acquire alternative energy resources? What competitive procurement process may be employed if the Default Services Provider acquires alternative energy resources through a long-term fixed price contract?

A default service provider serving a market where customers are free to switch to alternate generation suppliers cannot enter into long-term contracts without incurring a substantial risk of stranded costs if wholesale market conditions change and large numbers of customers migrate from default service. If the default service provider is required to enter into long-term contracts and is unwilling to voluntarily shoulder such risks, either limitations must be imposed on the ability of default customers to switch to alternative generation suppliers during the terms of the long-term contracts, or the costs of such contracts must follow the switching default service customer.

UGI does not yet know how the market for alternative energy resources will develop. Presumably, the demand for alternative energy resources created by the Alternative Energy Portfolio Standards Act of 2004 (“AEPS Act”) and similar requirements imposed by other states will either increase the price of power produced by such resources to the point where either the *Force Majeure* provisions of the AEPS Act are activated or sufficient alternative energy resources are produced so that the demand and supply come into balance at an acceptable price.

If the price signals created by the AEPS Act are not able to stimulate the creation of alternative energy resources in sufficient quantities to satisfy policy makers, and default service providers are required to enter into long-term contracts for such resources, then a non-bypassable cost recovery mechanism supported by an irrevocable order issued by the Commission, similar to a Qualified Rate Order, must be established. To be effective such a non-bypassable cost recovery mechanism would either have to establish switching restrictions for default service customers to coincide with the length of long-term contracts, or the costs of such contracts have to be able to follow the switching customer.

The details of such cost recovery mechanisms should, in UGI's opinion, be left to individual EDC POLR filings. However, one way the costs could follow the customer would be for the switching default service customer to pay an exit fee. Alternatively, a non-bypassable distribution rate surcharge or rider applicable to default service and shopping customers alike could be established to recover long-term contract costs, with electric generation suppliers being relieved of the obligation to provide the alternate energy resources procured by the default service provider under long-term contracts where the associated costs are being recovered through the distribution rate surcharge or rider.

5. Should the Commission integrate the costs determined through a §1307 process for alternative energy resources with the energy costs identified through the Default Service Provider regulations? How could these costs be blended into the Default Service Providers Tariff rate schedules?

Although UGI believes that non-reconcilable default service rates may be preferable where the default service provider is willing, in its sole discretion, to voluntarily accept the associated supply risks, such agreements may not always be

achievable, and reconcilable default service rates must be permitted to meet the statutory requirement of full cost recovery. It is also possible that a default service provider might be willing to accept the supply risk associated with the non-AEPS Act supplies, but would need a reconcilable cost recovery mechanism for AEPS Act supplies.

It is entirely possible, from a rate making perspective, to develop rates which are a blend of non-reconcilable non-AEPS Act rates and reconcilable AEPS Act rates. In such an instance the amounts collected for the two rate components could be easily tracked, so that reconciliation calculations for the AEPS Act component can be performed.

Reconcilable default service rates are also not necessarily inconsistent with providing appropriate price signals to retail customers. As with reconcilable AEPS Act rates, natural gas distribution companies (“NGDC”) offer reconcilable gas cost rates in a choice environment. Consistent with Commission policy, however, the “e-factor” component of gas costs rates, designed to recover over or under collections, is simply not included in the “price to compare” presented to customers.

7. Should the Commission delay the promulgation of default service regulations until a time nearer the end of the transition period, as suggested by the Independent Regulatory Review Commission in its comments on the proposed regulations?

UGI submits that there is no need for the Commission to adopt default service regulations on an expedited basis since the vast majority of Pennsylvania’s citizens will not be out from under rate caps until 2010 or 2011, the POLR rules of the few EDCs that have completed their transition period can be addressed on an interim basis, and by delaying the adoption of final POLR regulations the Commission can have the benefit of observing wholesale market developments and the outcomes of choice programs in other states.

UGI anticipates that some entities submitting comments at these dockets might argue that it is important for the Commission to finalize POLR rules now to provide certainty in the investment community and to permit EDCs and others to commence preparations for the post-transition period. UGI submits that Commission should be skeptical of these claims.

If POLR regulations are adopted now they will not actually be applied until well in the future since the rate caps established in the electric restructuring proceedings will still be in effect for the vast majority of electric consumers in the Commonwealth until 2010 or 2011. During that interim period the Commission could further revise its default service regulations in response to developing wholesale market conditions, federal regulatory changes or other changed conditions. Thus, any “certainty” would be illusory. Moreover, it is almost certain that the Commission’s POLR regulations will appropriately leave many details of default service to be resolved in individual default service plans. Since such plans would not be filed until well in the future, great certainty would not necessarily be provided by the adoption of default service regulations now.

Should the Commission decide it is necessary or appropriate to adopt default service regulations in the near future, it should defer the effective date of the regulations until 2010 or 2011 to relieve smaller EDCs, such as UGI, Pike County, Wellsboro and Citizens, who collectively serve less than 80,000 customers, from having to address the potentially complicated issues of interpretation or application well in advance of the date the vast majority of the Commonwealth’s electric consumers are out from under rate caps.

CONCLUSION

UGI commends the Commission for reopening its default service rulemaking to consider additional comments concerning AEPS Act implementation issue, the recommendations of the independent Regulatory Review Commission and other pertinent matters, and appreciates this opportunity to submit supplemental comments concerning these important issues.

Respectfully submitted,

Mark C. Morrow

Counsel for UGI Utilities, Inc. –
Electric Division

Dated: March 8, 2006