BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Distribution Companies and	)	
Promotion of Competitive Retail Markets	)	Docket No. L-2008-2069114

COMMENTS OF THE PENNSYLVANIA ENERGY MARKETERS COALITION: INCLUDING AGWAY ENERGY SERVICES, LLC, GATEWAY ENERGY SERVICES CORPORATION, ENERGY PLUS HOLDINGS LLC, INTERSTATE GAS SUPPLY, INC., PA GAS & ELECTRIC, AND VECTREN RETAIL, LLC

INTRODUCTION

Through an *Advanced Notice of Final Rulemaking* Ordered by the Public Utility Commission ("PUC," or "Commission") on August 10, 2010, the Commission is seeking Comments regarding proposed regulations governing the relationships between Natural Gas Distribution Companies ("NGDCs") and Natural Gas Suppliers ("NGSs") which sell, or seek to sell natural gas to end users on NGDC distribution systems. This rulemaking was initiated on March 27, 2009, and has been advanced at this time with significant changes to comply with the Commission's intention to remove barriers to retail competition in the natural gas market throughout the Commonwealth.[1]

As independent natural gas suppliers, Agway Energy Services, LLC ("Agway"), Gateway Energy Services Corporation ("Gateway"), Energy Plus Holdings LLC ("Energy Plus"), Interstate Gas Supply, Inc. ("IGS"), Pennsylvania Gas & Electric ("PAG&E") and Vectren Retail, LLC ("Vectren"), known separately and together for purposes of this filing as the Pennsylvania Energy Marketers Coalition ("PEMC")[2] collectively appreciate the opportunity to comment on the

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[1] Docket No. L-2008-2069114/57-269, in accordance with 52 PA. Code Ch. 62, published 39 Pa.B 3461, July 11, 2009.

[2] This group of energy marketers, which supply natural gas, electricity, and various other energy services to residential and commercial customers across a large number of utility markets throughout several states, works together collaboratively on non-competitive, regulatory issues to advance competitive markets and consumer choice.

proposed rules issued by the Commission. Specifically, PEMC wishes to provide Comments on components of the Commission's plan to formulate an appropriate Price to Compare ("PTC") methodology, reconcile utility natural gas cost rates and quarterly adjustments, and implement Purchase of Receivables ("POR") programs throughout the Commonwealth. We believe that on balance the Proposed Rules will significantly improve the competitive marketplace, attract additional gas suppliers, and increase opportunities for consumer choice. We are pleased that the Commission has recognized these issues as components to truly advance the intent established under the Natural Gas Choice and Competition Act[3] ("Competition Act"); which, while visionary at its time, has not yet resulted in extensive competitive activity in the Commonwealth.

UTILITY PRICE TO COMPARE MUST BE MARKET-BASED, FULLY UNBUNDLED, AND TRANSPARENT TO ENABLE TRUE COMPETITION

The Commission's Proposed Rules state that the PTC is to be adjusted quarterly and consist of *base gas cost*, *reconciliation for collections* (over and under), *utility procurement costs*, and the *Merchant Function Charge* ("MFC").[4] PEMC believes that these components are key to the development of a transparent price that will help consumers better understand the gas supply portion of their utility bill, and that it is critically important for consumers to be better positioned to make more accurate cost cmparisons between regulated and competitive options. However, we are concerned about the frequency of PTC adjustment, and ensuring that all price components are accurately reflected to establish a true comparison.

We strongly believe that consumers should be provided with as much accurate and timely information as is possible in order to make an informed decision as they consider competitive offers. To that end, it is important that a more accurate comparison between competitive supplier offers and utility rates be readily available.

[3] Pennsylvania Natural Gas Choice and Competition Act of 1999, Act 21.
[4] Docket No. L-2008-2069114, Commission's Discussion on Proposed Rules, p. 18.

We support the concept of increasing the frequency of "true-ups" through a more frequent reflection of the "e-factor" (which is the reconciliation of over-and-under gas cost expenses) to reduce the negative impact of the migration rider on customers when they first transfer to competitive supply. Today, migration riders create unexpected costs for consumers new to energy choice, who are then required to pay the charge for a full year following their initial switch to an NGS.

PEMC suggests it might be useful to look more closely at the over/under recovery mechanism through an industry collaborative (perhaps through the continuation of the SEARCH[5] initiative) to determine if a monthly adjustment would help to reduce uncertainty related to the nature of the true-up mechanism, thus providing better information to the market and consumers. If after review it was determined that monthly reconciliation of the over/under amount would assist in providing more efficient information to the market and consumers, then it would likely be prudent for this single component to be recalculated on a monthly basis and made available to all stakeholders consistent with the 1307(f) requirements (i.e., utility website).

By establishing more frequent adjustments to the e-factor, the utility would be able to reduce the balance that can accumulate reflecting the difference between its actual vs. estimated gas cost. By doing so, the materiality of potential over-or-under recovered costs would be mitigated when compared to the overall cost of gas. In this way, the migration rider may also be able to be reduced along with its distortive impact on price transparency. Nonetheless, we understand the position taken by the Commission in this matter and reiterate that a quarterly adjusted price is acceptable if a monthly e-factor can be made available to all stakeholders as discussed above.

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[5] Stakeholders Exploring Avenues for Removing Competition Hurdles ("SEARCH"), *Report of the Stakeholders' Working Group, Investigation into the Natural Gas Supply Market*, Docket No. I-00040103F0002, dated September 2008.

We agree with and applaud the Commission for its intention to unbundle all gas procurement costs from base rates and to add a Merchant Function Charge to help ensure no cross-subsidization occurs between those who shop and those who remain with the utility. We recognize that the regulated pricing paradigm reflects a pricing philosophy that pre-dates the introduction of competition in the natural gas market. Thus, any comparison between regulated and competitive prices is inherently imperfect. However, with the one modification related to e-factor noted above, we believe that the proposed revisions represent progress in better enabling consumers to use the corresponding PTC as a tool to compare commodity prices.

PURCHASE OF RECEIVABLES PROGRAMS ARE THE KEYSTONE TO SUCCESSFUL NGDC CHOICE PROGRAMS

As PEMC has indicated in several prior filings, Purchase of Receivables ("POR") programs have become a critically important vehicle in the development of competitive markets. For this reason, we agree with the Commission's position that mandatory POR programs must be established in each utility area. Successful POR programs are now fully in place in states such as New York and Ohio. Indeed, POR is becoming the keystone for any successful energy choice program.

In each case, the utility treats the purchased receivable as its own for collection and disconnection purposes. POR is especially important for supporting mass market consumers, and provides advantages to the utility and marketer alike. From a cost effective standpoint, POR programs help to leverage utility billing systems, reduce redundancy, and send a clear message to consumers about reliability of energy service that is supplied by competitive marketers and delivered by utilities.

In our experience, POR programs take a degree of complexity out of the customer's choice experience, and allow the customer to concentrate on the financial piece of the transaction instead. A properly administered POR program is transparent to the customer when contracting with a supplier for commodity. In addition, the utility is in a unique position with respect to collection of receivables before it becomes bad debt, in as much as the utility is in sole possession of the ability to disconnect service for non-payment of bills. Suppliers are not provided this ability and are therefore faced with this significant inequity related to the most important tool to maintain lower bad debt rates. We believe this is an extremely important point.

As such, we agree with the Proposed Rules that outline the key requirements of all POR programs instituted by NGDCs going forward with two exceptions:

First, under the Proposed Rules NGSs would be required to include all of their commodity-related receivables in a given utility's POR program – including those receivables associated with any supplier-based billing that did not meet the exception of being outside of basic service. This would require that an NGS must participate in the utility's consolidated billing program in order to partake in the utility's POR program. Conversely, we would advocate that NGSs who wish to establish their own consolidated billing systems would have the right to do so without the benefit of the utility's purchase of receivables program. This is especially important for those suppliers who are seeking to offer innovative products and services and who desire to provide their own billing services for these and other customers at their option. In essence, we believe that an "all in" or "all out" methodology by rate class should be acceptable, meaning a supplier can choose to participate in the consolidated billing for a rate class (for example residential) and thus, purchase of receivables would be available, or could choose to bill its customers on its own, by rate class, and thus purchase of receivables would not be available. Allowing this flexibility simply provides additional opportunities for a competitive supplier to offer its value proposition to the consumer, and the consumer can decide for himself/herself what offer works best for them.

Second, we believe that is important for the Commission to clarify that supplier receivables which are pledged to the utility under a given POR program relate <u>only</u> to those receivables generated as a result of charges billed on behalf of the NGS by the utility and associated with customers within the NGDC territory to which the POR agreement applies. In other words, an NGDC cannot lay claim to receivables of a supplier which may be associated with another utility area, or within the utility's area outside the POR program (for example, the supplier participates in both a choice program as well as the traditional transportation program, and there is no POR program in the traditional transportation program). We are certain that this was the intent of the Proposed Rule; however, feel it is important to clarify this point.

PIPELINE CAPACITY SHOULD FOLLOW THE CUSTOMER, BUT MUST NOT LIMIT NGS SUPPLY OPTIONS

As stated in the Commission's discussion concerning the Proposed Rules, PEMC concurs that until such time as the Pennsylvania natural gas market matures, utility operated natural gas capacity release and storage programs in Pennsylvania must be administered in a *competitively neutral* manner.[6] In this regard, no policy decisions should be made that provide regulatory advantage to the utility as the provider of natural gas to the end-use customer.

As a fundamental principle, the assets of gas pipeline and storage capacity should follow the customers of each utility, regardless of where they purchase their natural gas supply. These assets should be maintained by the NGDC only to the extent needed to serve those consumers who do not choose to migrate to a competitive supplier, or who choose to return to the utility.

[6] [6] Docket No. L-2008-2069114, Commission's Discussion on Proposed Rules, p. 31.

NGSs should be afforded a transparent and equitable share of capacity assets that can be used to serve the customers within a given utility territory. This may or may not be in the form of a true "slice of the system," but should include a share of the necessary assets (including storage and transportation) needed to serve the customers. If the utility designs a system that allows a supplier to deliver to a non-weather sensitive profile, basically meaning flat deliveries throughout the course of the year, adjusted only for increases and decreases associated with customers joining or leaving the suppliers pool(s), then the assets that would be released would be those necessary to meet the flat delivery requirements, and different than the capacity release that would be required when a utility requires a supplier to meet a heat sensitive delivery curve. We also believe that NGSs should have an opportunity to provide increased input into the decision making process for capacity contracts the NGDC may enter into in the future for default service, since there will be a continuing shift of customers from default supply with NGDCs to NGSs over time.

This overall approach to capacity and asset management would ensure reliability for non-shopping customers while providing the transparent evolution to the competitive market. It will also reduce the amount of NGDC stranded cost which could be forced upon the NGSs at a later time. Although we are sensitive to the utility's potential risk for stranded costs, we do not feel that unneeded or uneconomic assets should be maintained.

PEMC fully recognizes that each utility needs to have the flexibility to administer its capacity release program in the best way that can provide for simplified administration and ease of operation indicative of the nuances associated with their unique access to pipelines and storage. Any capacity or storage asset that a NGDC continues to hold regardless of migration level must be made available on an equal and competitively neutral basis to the NGS whether that be in the form of a slice of the system or other structure that provides equivalent values to ensure that the customer is not negatively impacted simply for having made a choice regarding commodity supply.

PEMC understands that NGDCs need to maintain access to the capacity needed to reliably meet their default service needs. Having significant experience on multiple utility systems throughout the East and Mid-West U.S., PEMC members have worked with utilities to determine the optimal level of assets the utility needs to retain regardless of migration levels, and once those levels have been achieved have supported mandatory capacity assignment as customers migrate between regulated and competitive service (and among competitive suppliers), so as to properly balance the need to ensure system reliability while at the same time reducing or eliminating stranded costs and reducing costs to consumers. Our concern is that any decision on the part of the utility to purchase additional assets beyond those needed to serve the customers must be made with the consumer in mind, and once the NGDC has retained 100% of a peak day in deliverable assets, it seems that anything beyond this level should be a business decision by the utility and at the expense of the shareholders, not the ratepayers. If levels below 100% can be achieved while maintaining system reliability, then in most instances PEMC believes that it should be the goal of the collective stakeholders to achieve those levels. As a general rule of thumb, the more liquid the points accessible to the NGDC become, the less year-round capacity the NDGC needs to hold. The less liquid (i.e. more constrained) the points are on the NGDC system, the higher the percentage of year-round deliverable assets the utility will need to hold, in some instances up to 100% of a peak day.

The reasoning behind these positions relate to the role of the utility, and nothing more. NGS Parties understand the importance of reliability. Over time, however, certain NGSs have established operations in several states, securing pipeline capacity from the same pipes that serve NGDCs in Pennsylvania and other states. As such, multi-jurisdictional NGS Party members have gained the ability to allocate and to optimize capacity assets among states and utility areas as needed to provide the most cost-effective arrangement for customers. Eventually, NGS Parties and other suppliers will have a more extensive and diverse supply chain than the NGDCs, which ultimately increases the reliability of each system in which they operate. In the meantime, any decision on the part of NGDCs to purchase any amount of capacity greater than 100% of the required peak day capacity must be made by the utility in a manner that does not transfer those additional costs to suppliers and choice consumers. This is not to say that the NGDC cannot decide to purchase more than 100% of its required peak day capacity at its own expense and for its own benefit , so long as the cost of this excess capacity is not charged back to suppliers and energy choice customers.

CONCLUSION

PEMC greatly appreciates the continued focus on the retail natural gas marketplace by the Commission, and its insistence that NGDCs develop a consistent approach to an environment where transparent prices, simplified billing, efficient use of assets, and all energy resources are best positioned for the benefit of the customer. We recognize that much work remains and pledge to the Commission our support to help make that vision a reality.

We urge the Commission to extend and continue the collaborative sessions conducted through the SEARCH initiative to consider more closely the components of the PTC and periodic adjustments to the e-factor as well as other components of cost, since it seems that these are complicated issues that may vary from utility to utility. These collaborative sessions would enable interested parties to more fully discuss issues such as capacity release, and additional ways in which the NGS supply function could be managed with as much flexibility as possible while maintaining competitive neutrality, system reliability, and the minimization of any potential stranded costs.

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Respectfully submitted on behalf of the Pennsylvania Energy Marketers Coalition,

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