PIOGA
Pennsylvania Independent Oil & Gas Association

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September 9, 2010

VIA ELECTRONIC FILING
Rosemary Chiavetta, Secretary
PA Public Utility Commission
400 North Street
Keystone Bldg., 2nd Floor
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed are the original Comments of the Pennsylvania Independent Oil and Gas Association which were electronically filed today in the above-referenced matter. Also enclosed is the electronic filing confirmation page. Electronic copies are being provided via email to David E. Screven, Esquire and Richard Wallace.

Very truly yours,

Louis D'Amico,
President & Executive Director

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF

Louis D. D'Amico
President & Executive Director
On behalf of the
Pennsylvania Independent Oil and Gas Association

Introduction

The Pennsylvania Independent Oil and Gas Association ("PIOGA")[1] submits these comments to the Advance Notice of Final Rulemaking Order (ANOFR) entered August 10, 2010. PIOGA commends the Pennsylvania Public Utility Commission for making significant changes to the proposed regulations to create a more level playing field between NGDCs and NGSs and to make it easier for customers to compare NGDC rates and NGS prices – the purpose (PUC ANOFR, pp. 1, 8, 14) and intent (ANOFR, pp. 4, 15) of the rulemaking. This rulemaking does not – and cannot – address the fundamental problem with Pennsylvania's natural gas retail competition model – the lack of fair competition inherent in the relationship between monopoly gas utilities providing merchant functions and unregulated NGSs and (2) the inability to uncover, prevent or effectively mitigate the opportunities for "mischief" between the utilities and their affiliated NGSs. However, the significant changes proposed in the areas of unbundling of all gas

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1 PIOGA is the comprehensive trade association representing oil and natural gas interests throughout Pennsylvania. Effective April 1, 2010, the Pennsylvania Oil and Gas Association (POGAM) merged into the Independent Oil and Gas Association of Pennsylvania (IOGA of PA) and the name of the organization changed to Pennsylvania Independent Oil and Gas Association (PIOGA). PIOGA now has over 800 members, including oil and natural gas producers, Commission-licensed natural gas suppliers (NGSs) and marketers, drilling contractors and service companies, professional service firms and individuals, and royalty owners. PIOGA members produce, transport and market Pennsylvania natural gas production from conventional wells over intrastate and interstate pipeline systems to PUC-regulated natural gas distribution companies (NGDCs) for system supply and for transportation customers. PIOGA members are also actively engaged in promoting the development and use of natural gas from the Marcellus Shale formation.

supply procurement costs, determination of the "price to compare" ("PTC") and design of Purchase of Receivables (POR) programs are a substantial step in the right direction to reduce the barriers to effective retail competition over which the Commission has control.

<u>Unbundling All Gas Supply Procurement Costs</u>

The Commission's requirement for complete unbundling of gas supply procurement costs (including SOLR procurement costs) from distribution rates and the implementation of the Gas Procurement Charge (GPC) and the Merchant Function Charge (MFC) address the uneven playing field and cross subsidy problems identified in the comments of PIOGA (then, IOGA of PA) in the Commission investigation that resulted in this rulemaking.

The Commission properly rejected the complex approach initially proposed in favor of a simple, straightforward approach to make the playing field more level. The Commission's action also demonstrates that the regulatory review process can work. The Commission considered the comments and responded with final proposed regulations that better serve the stated purposes and intent of the rulemaking through simple and clear directives. Unbundled gas supply procurement costs will be recovered through the GPC and the MFC, both of which will not be subject to reconciliation.[2] These simplified charges will, in turn, produce a simplified PTC, which is clearly in the public interest.

As summarized in the Commission's ANOFR, the PTC will be a single rate on a customer's bill, adjust quarterly, and consist of the following three elements on a per Mcf or Dth basis: (1) Section 1307(f) gas cost rate; (2) GPC; and (3) MFC.

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[2] Without reconciliation, the MFC does not constitute an automatic adjustment clause prohibited by 66 Pa. C.S. § 1408.

POR Programs

PIOGA agrees with the Commission that POR programs as designed by the Commission are "essential" to facilitate effective competition in the retail natural gas market and the best means to increase supplier participation in the market while compensating NGDCs for their risks and costs. In short, properly designed POR programs, as proposed in the final regulations, are in the public interest.[3]

PIOGA understands the Commission's rationale for requiring NGSs participating in POR programs to use NGDC consolidated billing for all POR customer classes. PIOGA agrees that the Commission's exceptions[4] strike the proper balance between the concerns of the NGDCs, consumer advocates and NGSs.

PIOGA also agrees with the Commission's rejection of a generic POR program "risk factor" to account for "risks over and above those associated with uncollectible expenses." The basis for this generic risk factor was explained by NFG:

> [I]n any area of business, companies who purchase accounts receivable do not do so at a dollar-for-dollar basis. Rather, a discount is always applied to the risk the purchasing entity takes with respect to *uncollectibles*. NFG further explains that among the risks an NGDC would take in implementing a POR program are the *risk of uncollectible accounts* and the *uncertainty of program implementation costs*.[5]

As the Commission explained, in POR programs "the NGDC is compensated both for the risk of non-payment and the costs of administering the POR by the discount rate that is applied to the purchased receivables."[6] Adding another "generic" risk factor component to the discount rate –

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3 PUC ANOFR at 23-24.

4 The two exceptions for separate supplier billing are if the NGDC's consolidated billing system cannot support the supplier's service/product or the supplier offers products bundled with non-basic services [proposed § 62.224(a)(2)(I), (II)].

5 PUC ANOFR at 21 (emphasis added).

6 PUC ANOFR at 23.

which is to be designed to reflect and recover the NGDC's actual uncollectible rate, which also can vary by customer class under the proposed final regulations – is clearly unwarranted and unreasonable.

As the Commission's proposed final regulations continue the current policy of NGDC voluntary proposal of POR programs, PIOGA takes no position at this time whether the Commission has the authority to mandate the offering of POR programs by NGDCs and agrees with the Commission's approach to wait and see how the NGDCs respond to the final regulations. Nonetheless, PIOGA suggests that the voluntary nature of an NGDC's POR program proposal does not, as some commentators have suggested here and in particular POR proceedings, limit the Commission's authority to require changes in a POR program approved by the Commission. To conclude otherwise would have the "regulatee" become the regulator.

Finally, PIOGA agrees that NGDCs with Commission-approved POR programs should have a reasonable transition period to conform these programs to the final regulations (PUC ANOFR at 30-31).

Respectfully submitted,

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Date: September 9, 2010