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File #: 126894

December 27, 2011

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**RE: Application of Leatherstocking Gas Company, LLC to Supply Natural Gas Service
to the Public in Certain Townships and Boroughs in Northern Susquehanna
County, Pennsylvania
Docket No. A-2011-2275595**

Dear Secretary Chiavetta:

Enclosed please find the Protest of UGI Penn Natural Gas, Inc. in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully Submitted,

Michael W. Hassell

MWH/skr

Enclosures

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

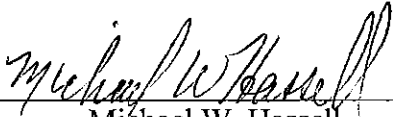
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Office of Small Business Advocate
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Bureau of Investigation & Enforcement
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PO Box 3265
Harrisburg, PA 17105-3265

Date: December 27, 2011



Michael W. Hassell

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Leatherstocking Gas Company, :
LLC to Supply Natural Gas Service to the : Docket No. A-2011-2275595
Public in Certain Townships and Boroughs in :
Northern Susquehanna County, Pennsylvania :

**PROTEST OF
UGI PENN NATURAL GAS, INC.**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

UGI Penn Natural Gas, Inc. (“PNG”), by and through its attorneys, Post & Schell, P.C., hereby files this Protest to the above-captioned Application filed by Leatherstocking Gas Company, LLC (“Leatherstocking”), Docket No. A-2011-2275595 (“Application”). This Protest is filed pursuant to the Regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code §§ 5.51-5.53.

In its Application, Leatherstocking seeks a certificate of public convenience, pursuant to Chapter 11 of the Public Utility Code, authorizing it to begin to offer, render, furnish, or supply natural gas distribution services in certain townships and boroughs in rural parts of northern and central Susquehanna County. PNG files this Protest for the following reasons, *inter alia*: (1) PNG has an interest that may be directly and substantially affected by the Commission’s disposition of the Application; (2) PNG has been engaged in substantial market development activities in the area covered by the Application, and intends in the near future to file its own application seeking Commission approval to construct its own natural gas facilities to provide natural gas service to all or a substantial portion of the service area contemplated in the

Application; (3) the Application does not provide sufficient information to demonstrate a public need; (4) the Application does not provide sufficient information to demonstrate that Leatherstocking possesses the necessary fitness to provide adequate, efficient, safe, and reasonable natural gas distribution service; and (5) the Application does not provide any meaningful commitments or any specific details about the benefits that approval of the Application would provide. For these reasons, as more fully explained below, PNG respectfully requests that the Commission grant protestant status to PNG, and deny the Application. In support thereof, PNG avers as follows:

I. PNG'S INTEREST

1. Through its Application, Leatherstocking is seeking Commission approval to begin to offer, render, furnish, or supply natural gas service to all areas of the following municipalities within Susquehanna County: Townships of Bridgewater, Forest Lake, Great Bend, Harmony, New Milford and Oakland; and the Boroughs of Great Bend, Hallstead, Lanesboro, Montrose, New Milford, Oakland, and Susquehanna. *See* Application, p. 4.

2. PNG is a Pennsylvania certificated “public utility” and a “natural gas distribution company” (“NGDC”) as those terms are defined in Sections 102 and 2202 of the Code, 66 Pa.C.S. §§ 102, 2202. PNG provides natural gas transmission, distribution, and supplier of last resort services to approximately 157,000 customers throughout its certificated service territory, which includes all or a portion of the following Pennsylvania counties: Clinton, Columbia, Lackawanna, Luzerne, Lycoming, Montour, Northumberland, Pike, Snyder, Susquehanna, Union, Wayne, and Wyoming Counties.

3. PNG is planning to file a certificate application with the Commission to extend its service within Susquehanna County, including all or part of the service territory proposed in the

Application. PNG currently is investigating the best means of extending its service within Susquehanna County, including the negotiation of necessary supply arrangements and the identification of specific customer loads, neither of which appear to have been finalized by Leatherstocking. PNG has had substantial contact and outreach with customers in Susquehanna County, as well as with gathering systems and local producers to determine the best means of expanding service into additional portions of Susquehanna County. Further, PNG has been assessing the technical and logistical requirements that would be necessary to build facilities that would enable PNG to provide reasonably priced, safe, and reliable service in the same areas covered by the Application from gathering lines and field production and possibly its other gas infrastructure.

4. PNG currently provides natural gas services within Lackawanna, Wayne, and Wyoming Counties, which are neighboring counties to Susquehanna County. Further, PNG's certificated service territory presently includes Forest City Borough, Uniondale Borough, Clifford Township, and Auburn Township, which are located in Susquehanna County. Given the close proximity, it would be a natural extension of PNG's existing facilities and certificated service territory to serve additional areas within Susquehanna County, including all or part of the service territory proposed in the Application.

5. The Commission's disposition of Leatherstocking's Application will have a direct, immediate, and substantial impact on the contemplated extension of PNG's existing facilities and certificated service territory to serve additional areas within Susquehanna County.

II. GROUNDS FOR PROTEST

6. Section 1101 of the Public Utility Code provides, in pertinent part, as follows:

Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience, first had and obtained, it shall be lawful for any such proposed public utility to offer, render, furnish, or supply service within this Commonwealth. . . .

66 Pa.C.S. § 1101. Section 1102 of the Code requires the issuance of a certificate of public convenience as a legal prerequisite to, *inter alia*, offering public utility service. 66 Pa. C.S. § 1102(a). Section 1103 of the Code provides that a certificate of public convenience will be issued if the Commission “shall find and determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience or safety of the public.” 66 Pa.C.S. § 1103.

7. The above mandate requires an applicant to demonstrate: (a) a public need or demand for the proposed service; (b) the inadequacy of existing facilities for service; and (c) the applicant’s fitness to provide service. *Application of Newtown Artesian Water Company*, 2003 Pa. PUC LEXIS 40 (July 1, 2003). In turn, “fitness” involves three factors: (i) the technical capacity to meet the need in a satisfactory fashion; (ii) the financial ability to give reliable and responsible service to the public; and (iii) legal fitness -- the ability to operate safely and legally. *See, Re: O’Connor*, 54 Pa PUC 547 (1980); *Warminster Twp. Mun. Auth. v. Pa. P.U.C.*, 138 A.2d 240 (Pa. Super. 1958).

8. In support of its Application, Leatherstocking submitted two generic letters from individual Susquehanna County Board of Commissioners supporting the Application. However, it is unclear from the Application whether potential customers have sought service from Leatherstocking or otherwise support the Application. By contrast, PNG has had substantial contact and outreach with customers in Susquehanna County, as well as with natural gas gatherers and local producers, to determine interest and costs involved in expanding service into additional portions of Susquehanna County.

9. Susquehanna County largely is comprised of rural areas that currently lack natural gas service. The prudent and carefully planned development of natural gas infrastructure in Susquehanna County would be a significant public benefit. Consequently, it is critically important for the Commission to ensure the entity that provides such service has the requisite managerial and technical fitness. Furthermore, it is important that the Commission adopt the best overall plan to develop and provide natural gas services to serve the service territory proposed in the Application, as well as other areas in Susquehanna County.

10. Leatherstocking's Application fails to provide sufficient detail to demonstrate that Leatherstocking is managerially and technically fit to develop and provide natural gas transmission, distribution, and supplier of last resort services in Susquehanna County. It is not apparent from the Application that Leatherstocking or its affiliates have any expertise in owning or operating a Pennsylvania regulated NGDC. It also is not apparent from the Application that Leatherstocking will have access to sufficient long-term financial resources to operate as a public utility on a permanent basis. Further, Leatherstocking's Application fails to provide sufficient detail to demonstrate that Leatherstocking will provide adequate, efficient, safe, and reasonable service at just and reasonable rates.

11. Leatherstocking's Application does not provide any meaningful commitments or any specific details about the source of natural gas supply to serve the proposed service territory. Indeed, the Application generally states that it plans to obtain gas supplies from local producers via pipelines or possibly gathering lines. *See Application, p. 5.*

12. Leatherstocking also has provided projections of capital investments and customer additions in its application that appear to be totally speculative and based on unrealistic cost projections. Nonetheless, based on these projections Leatherstocking has proposed initial

distribution rates that would greatly exceed the distribution rates PNG would charge if it extended its existing tariff rates.

13. PNG submits that it would not be in the public interest to burden potential natural gas distribution customers in the areas that Leatherstocking seeks to certificate with rates that would be based on a very small customer base, until such time as it is clear that the area could not be served by PNG at lower rates reflecting the efficiencies of its much larger customer base.

14. Leatherstocking's Application does not provide any meaningful commitments or any specific details about the benefits that its proposal would provide. The Application simply commits that approval of the Application is in the public interest because it will provide local gas to rural areas and generally will promote jobs and the economy. *See* Application, p. 7. Such a static, generic promise is insufficient to satisfy the Commission's standard requiring that the proposal be necessary or proper for the service, accommodation, convenience, or safety of the public.

15. The Commission should consider whether conditions on any approval are necessary in order to protect the public interest. *See* 66 Pa.C.S. § 1103(a) ("The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable."); *see also id.* § 2210(b) ("[T]he commission shall not approve such proposed merger, consolidation, acquisition or disposition, except upon such terms and conditions as it finds necessary to preserve the benefits of a properly functioning and effectively competitive retail natural gas market"). A determination as to appropriate conditions requires the development of a thorough record and a meaningful opportunity for interested parties to be heard.

III. CONCLUSION

16. PNG reserves the right to raise additional issues as the case proceeds and further information is obtained from Leatherstocking.

17. Based on the foregoing, and for any other issues or grounds that may arise during the proceeding, PNG objects to Leatherstocking's Application in its entirety.

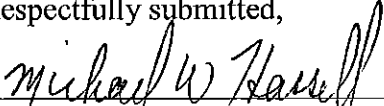
WHEREFORE, for the foregoing reasons, UGI Penn Natural Gas, Inc. respectfully requests to be granted "Protestant" status, and that the relief requested in the above-captioned Application be denied.

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Of Counsel:
Post & Schell, P.C.

Date: December 27, 2011

Respectfully submitted,



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Attorneys for UGI Penn Natural Gas, Inc.

**BEFORE THE
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Application of Leatherstocking Gas Company, :
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Public in Certain Townships and Boroughs in :
Northern Susquehanna County, Pennsylvania :

VERIFICATION

I, Allen R. Westbrook, Vice President, Area Marketing and Sales - UGI Utilities , Inc., hereby state that I am duly authorized to and do make this Verification on behalf of UGI Penn Natural Gas, Inc.; that the facts set forth in the foregoing Protest of UGI Penn Natural Gas, Inc. are true and correct to the best of my knowledge information and belief; and that I understand that my statements made herein are subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsifications to authorities).


Allen R. Westbrook