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| PUC logo | COMMONWEALTH OF PENNSYLVANIA  PENNSYLVANIA PUBLIC UTILITY COMMISSION  P.O. BOX 3265, HARRISBURG, PA 17105-3265 | **IN REPLY PLEASE REFER TO OUR FILE** |

July 3, 2013

To: Natural Gas Suppliers and Natural Gas Distribution Companies

Re: Licensing Requirements Applicable to Mixed Meter Scenarios and Natural Gas Distribution Company Customer Classifications

Docket No.: M-2009-2082042

Questions have arisen about whether a natural gas supplier (NGS) must be licensed to serve residential customers in two sets of circumstances: 1) mixed meter scenarios; and 2) a situation where a natural gas distribution company (NGDC) classifies a customer as residential for rate purposes but the customer is by all other accounts clearly a commercial customer. These questions have been directed to the Office of Competitive Market Oversight (OCMO) of the Pennsylvania Public Utility Commission (Commission), and we believe they warrant clarification through the issuance of this Secretarial Letter.

*Mixed Meter Scenarios*

Mixed meter scenarios occur when an NGS is licensed to serve commercial, industrial or governmental customers but also provides service through multiple meters to one or more residential customers. The NGS has contracted with the commercial, industrial or governmental customer, and the service provided to residential customers through separate meters is part of or incidental to that contract or account. The question is whether the NGS needs to have a license to serve residential customers in these scenarios.

On March 25, 2011, the Commission issued the attached Secretarial Letter at the above-referenced docket number, providing guidance for electric generation suppliers. We now clarify that the guidance set forth in the March 25, 2011 Secretarial Letter is equally applicable to natural gas suppliers.

In summary, an NGS licensed to serve commercial, industrial or governmental customers must also apply for and obtain authority to serve residential customers in mixed meter scenarios. Also, an NGS filing an amendment to change only the classes of customers who are served need not publish notice in newspapers of general circulation. Further, NGSs filing applications to amend their licenses to serve residential customers need not submit disclosure statements until such time as they would begin interacting directly with such customers. Finally, NGSs in mixed meter scenarios would generally be exempt from consumer protections in Chapter 56 and Chapter 62.

*NGDC Customer Classifications*

In some situations, NGDCs gives commercial entities, such as non-profit organizations, the opportunity to take service under a residential rate schedule for reasons that benefit the

customer. Under the NGDC’s tariff and in the NGDC’s system, the customer is considered “residential” even though it is clearly a commercial entity. Again, the question is whether an NGS needs to have a license to serve residential customers simply because the NGDC classifies the customer in that manner for tariff or rate purposes. Some NGDCs have refused to process enrollments in these situations if the NGS’s license does not include authority to serve residential customers. The examples that have been presented include:

* A church with no living unit;
* An office building associated with a hospital system; and
* An overnight cottage at a golf course.

We do not believe it is appropriate for the NGDC’s classification of the customer to be controlling for purposes of determining whether the NGS must amend its license to serve residential customers. Rather, it is the nature of the customer that is determinative for licensing requirements. Moreover, allowing NGDCs to decline to process enrollments in these situations where they believe an NGS needs a different class of license from the Commission essentially places the NGDCs in a “gatekeeper” role, which we have refrained from doing in similar situations.[[1]](#footnote-1) Of course, while we do not wish to place NDGCs in a gatekeeper role for purposes of Commission licensing requirements and monitoring enrollments, it is incumbent upon NGSs to adhere to the NGDCs’ operational tariff rules, such as those governing operational flow orders, balancing and curtailment.

If an NGDC becomes aware of a situation where it appears that an NGS is attempting to serve or is serving types of customers who are not covered by the NGS’s license, the NGDC is encouraged to raise that issue with the NGS. If the matter cannot be resolved by the NGDC and NGS, it should be brought to the attention of OCMO via email directed to [ra-OCMO@pa.gov](mailto:ra-OCMO@pa.gov). OCMO will follow up with the NGS and if necessary, refer the matter to the Commission’s Bureau of Investigation and Enforcement for further action as deemed appropriate.



Very truly yours,

Rosemary A. Chiavetta

Secretary

cc: Office of Competitive Market Oversight

Law Bureau

Bureau of Technical Utility Services

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MARCH 25, 2011

To: Electric Generation Suppliers and Electric Distribution Companies

Re: Requirements Applicable to Mixed Meter Scenarios

Docket No.: M-2009-2082042

The Commission is aware of questions that have arisen about whether an electric generation supplier (EGS) must be licensed to serve residential or small commercial customers in mixed meter situations. These questions have been raised and discussed during conference calls of the Committee Handling Activities for Retail Growth in Electricity, which are hosted by our Office of Competitive Market Oversight (OCMO).

The term “mixed meter,” as used in the context of these inquiries, refers to a situation where an EGS, which is licensed to serve large commercial, industrial or governmental customers, also provides service through multiple meters to one or more residential or small commercial customers. The EGS has contracted with the large commercial, industrial or governmental customer, and the service provided to residential or small commercial customers through separate meters is part of or incidental to that contract or account.

Several examples of mixed meter scenarios have been provided, including the following:

* An EGS contracts with a university to provide electric supply through multiple meters, and the president’s home is served as part of that account through a residential meter;
* An EGS contracts with a military base and provides supply through multiple meters including commercial, such as hospitals and storage depots, and residential, such as dwellings for commanding officers;
* An EGS contracts with a parish and the rectory is served as part of the account;
* An EGS contracts with a bank that has several branches and receives service as a large commercial customer, while automated teller machines are metered as small commercial customers; and
* An EGS contracts with an industrial complex that is a large commercial customer, with maintenance sheds and parking lot lights being served through small commercial meters.

By this Secretarial Letter, we clarify that an EGS licensed to serve large commercial, industrial or governmental customers must also apply for and obtain authority to serve residential

or small commercial customers in mixed meter scenarios. This clarification is consistent with the Commission’s licensing regulations at 52 Pa. Code §54.33, which require applicants to identify the classes of customers they intend to serve. Also, our licensing orders and the licenses issued to EGSs specify the classes of customers to whom service may be provided, including

residential, small commercial (25 kW and under demand), large commercial (over 25 kW demand) and governmental. *See, e.g*. *License Application of Planet Energy (Pennsylvania) Corp for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power*, Docket No. A-2011-2223534 (Order adopted February 24, 2011; *Amendment to Electric Generation Supplier License of Premier Power Solutions, LLC*, Docket No. A-110170 (Order adopted February 24, 2011).

Therefore, regardless of who the contracting party is or whether the service to residential or small commercial customers is incidental to service provided to a large commercial, industrial or governmental customer, EGSs are required to obtain amendments to their licensing authority to serve all classes of customers who will receive supply from them. In filing such amendments to change only the type of customers who are served, it is not necessary to publish notice in newspapers of general circulation, as required for original applications or requests to amend the geographic area to be served, pursuant to 52 Pa. Code §54.35. Further, EGSs filing such applications to amend their licenses to serve residential or small commercial customers need not submit disclosure statements required by 52 Pa. Code §54.5 until such time as they would begin interacting directly with such customers.

As to the provisions of Chapter 56 of the Commission’s regulations in Title 52 of the Pennsylvania Code and the specific customer protections in 52 Pa. Code §§54.4-54.9, which are normally applicable to EGSs serving residential and small commercial customers, as outlined in the above licensing orders, we note that EGSs serving such customers in mixed meter scenarios would generally be exempt from compliance with these provisions. Our understanding of those situations is that all of the EGS’s interactions, including extending an offer, conducting negotiations, executing a contract and issuing bills, are exclusively with the large commercial, industrial or governmental customer, and that the provision of service to a residential or small commercial customer is merely incidental to the sale of that supply. Since the EGS would have no interactions with a small commercial or residential customer served as part of such a mixed meter account, it would be impractical to require compliance with provisions intended to protect those consumers during contract negotiations and the billing process.

Also, we note that electric distribution companies (EDCs) serving residential customers as part of a large commercial customer account likewise do not comply with Chapter 56 provisions except when terminating service. Since the EGS cannot terminate service but rather only has the option of returning the customer to the EDC for non-payment, no residential customer’s service can be terminated until after the EDC has complied with the notification requirements of Chapter 56.

We emphasize that the clarifications provided by this Secretarial Letter are not intended to apply to affinity group marketing situations where an EGS that is licensed to serve commercial, industrial or governmental customers offers to provide service to the customer’s employees or customers for use at their individual residences. The relevant provisions of Chapters 54 and 56 would apply to these accounts.

While it is not possible to provide clarification for every possible scenario the Commission’s guidance here is based on use of good judgment and common sense. As such, it should be capable of being applied to most situations. Questions about whether it is necessary to extend Chapter 54 or 56 protections to residential or small commercial customers who are served incidental to or as part of a large commercial, industrial or governmental contract should be

raised with the Commission’s OCMO. In responding, OCMO will consider the nature of the service and the extent, if any, of interactions with the residential or small commercial customers

and seek further guidance from the Law Bureau or the Commission as necessary. These inquiries should be sent to [ra-ocmo@state.pa.us](mailto:ra-ocmo@state.pa.us).

 Very truly yours,

Rosemary A. Chiavetta

Secretary

cc: Office of Competitive Market Oversight

1. *See* Secretarial Letter dated August 20, 2010, Electric Generation Supplier Access to Restricted Customer Accounts, Docket No. M-2009-2082042 (relating to ability of electric generation suppliers to obtain historical usage data from the electric distribution company on the basis of a letter of authorization obtained by the supplier). [↑](#footnote-ref-1)