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September 9, 2013

Honorable Elizabeth H. Barnes
Administrative Law Judge
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17015

VIA E-MAIL AND FIRST CLASS MAIL

RE: Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-on-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies; Docket No. P-2011-2277868

Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies; Docket No. I-2012-2320323

Dear Judge Barnes:

Enclosed please find the Petition for Interlocutory Review on behalf of the Industrial Energy Consumers of Pennsylvania ("IECPA") which was filed electronically with the Pennsylvania Public Utility Commission in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, copies of the Petition have been duly served upon the participants in this proceeding. Please contact us if you have any questions regarding the enclosed documents. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Teresa K. Schmittberger', is written over a printed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Teresa K. Schmittberger

Counsel to the Industrial Energy Consumers of Pennsylvania

TKS/sar

Enclosures

c: Rosemary Chiavetta, Secretary (Via Electronic Filing)
Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

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Teresa K. Schmittberger

Counsel to the Industrial Energy Consumers of
Pennsylvania

Dated this 9th day of September, 2013, at Harrisburg, Pennsylvania

matter of law, a party to a proceeding may ask interrogatories from individual business entities (including their representatives) that are not parties to the same proceeding, specifically when the individual business entities are only involved in the proceeding as members of a corporation that is a party to the proceeding."

4. The Commission's regulations allow an ALJ to certify a question related to discovery matters when "the ruling involves an important question of law or policy that should be resolved immediately by the Commission." 52 Pa. Code § 5.304(b). Interlocutory review of a discovery ruling is considered appropriate when a

showing may be accomplished by the petitioner that, without interlocutory review, some harm would result which would not be reparable through normal avenues, that the relief sought should be granted now rather than later, or that granting interlocutory review would 'prevent substantial prejudice or expedite the proceeding.'

MCI WorldComm Comm'ns, Inc. v. Verizon Pa., Inc., 2001 WL 36256566 (Pa. P.U.C. 2001) (citing *In re: Application of Knights Limousine Service, Inc.*, 59 Pa. P.U.C. 538 (1985)). As discussed more fully herein, interlocutory appeal is warranted in the instant situation.

5. The PUC's regulations only allow for interrogatories to be served by parties on other parties of the same proceeding. See 52 Pa. Code § 5.341(a). An entity, other than the statutory advocates, becomes a party in a PUC proceeding after its Petition to Intervene is granted. See 52 Pa. Code § 5.71(a)(2). The Commission's regulations do not provide for parties to submit written interrogatories to individuals that are not parties to a proceeding.

6. Accordingly, interlocutory review is necessary to prevent substantial prejudice to IECPA in the instant proceeding. IECPA requests that the Commission find that because IECPA, and not IECPA's individual members, was granted party status in this proceeding, only IECPA may be asked interrogatories. Requiring IECPA's individual members to each answer interrogatories individually would require IECPA to expend significant additional resources as part of the discovery portion in this proceeding such that continued participation in the proceeding may become cost-prohibitive. Thus, IECPA would experience substantial prejudice that could only be avoided by interlocutory review at this juncture.

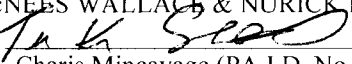
7. Additionally, interlocutory review is appropriate due to the inefficiencies that would be created if this ruling is allowed to stand. There are many organizations that frequently participate in PUC proceedings on behalf of individual members, including IECPA, the Pennsylvania Independent Oil and Gas Association ("PIOGA"), the Energy Association of Pennsylvania ("EAP"), and the Retail Energy Supply Association ("RESA"). To call for each of the members in these organizations to provide individual answers to all interrogatory requests would overwhelm these organizations' resources and eliminate the efficiencies of collective participation in PUC proceedings through

trade group or organization. As a result, such organizations, two of whom are participants in the instant proceeding,² could be significantly hindered in their ability to provide discovery answers and participate in the proceeding in an expedited manner.³

8. Finally, interlocutory review is required at this juncture to avoid overwhelming the discovery process for the remainder of the proceeding. Because IECPA members are participating in this PUC proceeding as part of an incorporated trade association, it is wholly inappropriate to require its members to provide individual discovery answers.⁴ If IECPA members are required to do so, the door could be opened so that any member of an organization, whether they be officers or shareholders, could be subject to interrogatories, which could overwhelm the discovery process for all parties in this proceeding.⁵

9. If it is not the intent of the Commission to allow for such extensive discovery of non-parties and corporate officials pursuant to its regulations, then, based on the aforementioned, it is essential that the Commission rule on this matter now to avoid substantial prejudice, an overwhelmed discovery process, and the significant waste of resources that would otherwise occur through delay.

WHEREFORE, the Industrial Energy Consumers of Pennsylvania respectfully request that the Administrative Law Judge certify the material question discussed herein for review by the Pennsylvania Public Utility Commission.

Respectfully submitted,
McNEES WALLACE & NURICK LLC
By 
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Dated: September 9, 2013

Counsel to the Industrial Energy Consumers of Pennsylvania

² Both IECPA and PIOGA are parties to this investigation, while EAP has been actively monitoring this investigation.

³ Although PIOGA has yet to be served with interrogatories in this proceeding, PIOGA would be subject to the same requirement that individual members each must provide answers.

⁴ Although IECPA noted its independent corporate status in its Answer to People's Motion to Compel, which included IECPA's corporate bylaws as an appendix, IECPA is also attaching its Certificate of Good Standing to this Petition as Appendix A.

⁵ To date, all of Peoples' interrogatory responses have been provided by representative witnesses who are presumably providing responses on behalf of Peoples. Peoples has provided no indication, however, regarding whether all of its officers or shareholders individually agree with the issues of this investigation. As a result, if interlocutory review of this matter does not occur, parties to this proceeding could seek such answers from Peoples' individual officers and stakeholders.

Appendix A

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

SEPTEMBER 6, 2013

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

I DO HEREBY CERTIFY THAT,

INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA

is duly incorporated as a Pennsylvania Corporation under the laws of the Commonwealth of Pennsylvania and remains a subsisting corporation so far as the records of this office show, as of the date herein.

I DO FURTHER CERTIFY THAT, This Subsistence Certificate shall not imply that all fees, taxes, and penalties owed to the Commonwealth of Pennsylvania are paid.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the Secretary's Office to be affixed, the day and year above written.

A handwritten signature in cursive script, appearing to read "Carol Aichele".

Secretary of the Commonwealth