

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. **REPORT DATE:**

January 4, 2000

2. **BUREAU AGENDA NO.:**

JAN-2000-FUS-1141*

3. **BUREAU:** Fixed Utility Services

4. **SECTION(S):** Energy

5. **PUBLIC MEETING DATE:**

January 27, 2000

6. **APPROVED BY:**

Director: Rosenthal 3-5242 *RR*

Supervisor: Bennett 7-3555

Legal Review by *W. G. Wet* 7-3464

7. **PERSONS IN CHARGE:**

gg Sivulich/Rodrock 7-5865

8. **DOCKET NO.:** A-125049

DOCKETED

FEB 3 2000

- 9. (a) **CAPTION** (abbreviate if more than 4 lines)
- (b) **Short summary of history & facts, documents & briefs**
- (c) **Recommendation**

DOCUMENT FOLDER

(a) Natural Gas Supplier License Application of Nicole Energy Services, Inc.
(Home Office: Columbus, OH)

(b) On November 9, 1999, Nicole Energy Services, Inc. filed an application to offer, render, furnish or supply natural gas supply services to commercial, industrial and governmental customers in Columbia Gas of Pennsylvania, Inc., The Peoples Natural Gas Company, Equitable Gas Company and National Fuel Gas Distribution Corp. service territories within the Commonwealth of Pennsylvania, as a supplier, broker/marketer and aggregator of natural gas services.

The License Application is filed in accordance with the requirements of Section 2208 of the Public Utility Code, 66 Pa. C.S. §2208 and the Commission's Order at M-00991249F0002, entered July 16, 1999.

(c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed Draft Order which conditionally approves the License Application.

Order Doc. # 166926

Calendar Doc. # 166931

10. **MOTION BY:** Commissioner Chm. Quain

Commissioner Brownell - Yes

SECONDED: Commissioner Bloom

Commissioner Wilson - Yes

Commissioner Fitzpatrick - Yes

CONTENT OF MOTION: Staff recommendation adopted.

SRB



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

JANUARY 27, 2000

A-125049

SHIRLEY L MAYS ESQ
NICOLE ENERGY SERVICES INC
513 E RICH ST SUITE 306
COLUMBUS OH 43215

DOCUMENT
FOLDER

Application of Nicole Energy Services, Inc., to become a licensed supplier,
Broker/marketer and aggregator of natural gas services

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on January 27, 2000 has
adopted an Order in the above-entitled proceeding.

An Order has been enclosed for your records.

DOCKETED
FEB 01 2000

Very truly yours,

James J. McNulty
Secretary

EEF

Enclosure
Certified Mail
FG

JAMES NORRIS ESQUIRE
ECKERT SEAMANS
CHERIN & MELLOTT
600 GRANT STREET 42ND FLOOR
PITTSBURGH PA 15219

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

Public Meeting held January 27, 2000

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Aaron Wilson, Jr.
Terrance J. Fitzpatrick

Application of Nicole Energy Services, Inc. to
become a licensed supplier, broker/marketer
and aggregator of natural gas services

Docket Number: A-125049

DOCKETED
FEB 01 2000

DOCUMENT
FOLDER

ORDER

On November 9, 1999, Nicole Energy Services, Inc. filed a License Application to operate as a supplier, broker/marketer and aggregator of natural gas services in the Commonwealth of Pennsylvania. This application was filed pursuant to section 2208 of the Natural Gas Choice and Competition Act (Act) and the Commission's Order at M-00991249F0002, entered July 16, 1999.

§2208 provides in pertinent part that:

Requirements for Natural Gas Suppliers.--No entity shall engage in the business of a natural gas supplier unless it holds a license issued by the Commission. To the extent that a natural gas distribution company provides natural gas supply service outside of its chartered or certificated territory, it also must hold a license. A license shall not be required for customers who make de minimis incidental sales or resales to themselves, an affiliate or to other nonresidential retail gas customers. 66 Pa. C.S. § 2208.

A natural gas supplier is defined as:

An entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company. The term includes a natural gas distribution company that provides natural gas supply services outside its certificated service territories. The term includes a municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply services to retail customers located outside of its corporate or municipal limits, as applicable, other than:

- (i) as provided prior to the effective date of this chapter, pursuant to a certificate of public convenience if required under this title;
- (ii) total natural gas supply services in de minimis amounts;
- (iii) natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided; or
- (iv) natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law independent of this chapter.

The term excludes an entity to the extent that it provides free gas to end-users under the terms of an oil or gas lease. Notwithstanding any other provision of this title, a natural gas supplier that is not a natural gas distribution company is not a public utility as defined in section 102 (relating to definitions) to the extent that the natural gas supplier is utilizing the jurisdictional distribution facilities of a natural gas distribution company or is providing other services authorized by the Commission. 66 Pa. C.S. § 2202.

As used in the above definition of a natural gas supplier, the term natural gas supply services includes (i) the sale or arrangement of the sale of natural gas to retail customers; and (ii) services that may be unbundled by the Commission under section 2203(3) of the Act (relating to standards for

restructuring of the natural gas utility industry). Natural gas supply service does not include distribution service. 66 Pa. C.S. § 2202.

It is important to note that a licensee must comply with, and be governed by, our Chapter 56 regulations. Thus, we deem it appropriate to reiterate certain items with respect to Chapter 56 of our regulations. Chapter 56 (52 Pa Code Chapter 56) is applicable to residential and small commercial accounts. A natural gas supplier cannot physically disconnect a customer from the distribution system, and thus, the service termination provisions of Chapter 56 are not applicable to natural gas suppliers. A natural gas supplier may seek to terminate its natural gas services through an appropriate written notice to the customer and the local distribution company. The customer can then attempt to repair its relationship with the natural gas supplier, seek a new natural gas supplier, or default to the natural gas distribution company's service tariffed rates in accordance with the local distribution company's obligations under Section 2207(a), 66 Pa. C.S. §2207(a). The customer would only be disconnected from the distribution system pursuant to Chapter 56 if the customer failed to meet its obligations to the natural gas distribution company or the natural gas supplier which has been designated by the Commission as the supplier of last resort.

Additionally, we take this opportunity to once again remind the licensee that its officers, representatives and employees have agreed to abide by all Commission regulations, procedures and orders, including Emergency Orders which may be issued verbally, or in writing during any emergency situations that may develop from time-to-time in the course of doing business in Pennsylvania.

Nicole Energy Services, Inc. has stated that upon the approval of this Application, it proposes to provide natural gas supply services to commercial, industrial and governmental customers in Columbia Gas of Pennsylvania, Inc., The

Peoples Natural Gas Company, Equitable Gas Company and National Fuel Gas Distribution Corp. service territories within the Commonwealth of Pennsylvania.

Nicole Energy Services, Inc. has provided an affidavit regarding proofs of publication in the Pennsylvania newspapers as required by the Commission to provide service in the following local distribution company's service territories: Columbia Gas of Pennsylvania, Inc., The Peoples Natural Gas Company, Equitable Gas Company and National Fuel Gas Distribution Corp.

Regarding the financial and technical fitness requirements of the license application, Nicole Energy Services, Inc. has submitted the Financial Statements and Federal Income Tax Returns of Nicole Gas Marketing, Inc. for the years ended December 31, 1998 and 1997, Balance Sheets and Income Statements dated August 31, 1999 and October 31, 1999, a Dun & Bradstreet Report and a Confidential Letter dated December 22, 1999. Nicole Energy Services, Inc. is a subsidiary of Nicole Gas Marketing, Inc.

Section 2208 (c) (1), 66 Pa. C.S. section 2208(c)(1), provides that a natural gas supplier license shall not be issued unless the applicant furnishes a bond or other security in a form and amount to ensure its financial responsibility. The criteria used to establish the form and amount of the bond or other security shall be set forth in the natural gas distribution company's restructuring filing. The amount and form of the bond or other security may also be mutually agreed to between the natural gas distribution company and the natural gas supplier. Section 2208 also provides that should the parties fail to achieve an agreement, then the form and the amount of bond or other financial security "shall be determined by criteria approved by the Commission." However, the restructuring proceedings will not be completed until after the November 1, 1999 start date for natural gas

competition. While the bonding requirement cannot be waived, the Commission believes that it is in the public interest to defer this requirement until such time as Commission criteria on bonding is established so as not to delay or diminish customer choice in natural gas supply.

Accordingly, the Commission will issue a license to Nicole Energy Services, Inc. and direct that within 30 days of the completion of the restructuring proceedings of Columbia Gas of Pennsylvania, Inc., R-00994781; The Peoples Natural Gas Company, R-00994782; Equitable Gas Company, R-00994784 and National Fuel Gas Distribution Corp., R-00994785, that Nicole Energy Services, Inc., shall submit documentation to the Commission to evidence its compliance with the Section 2208(c) bonding requirement for each of the above mentioned natural gas distribution companies in which Nicole Energy Services, Inc. has applied to provide natural gas supply services. Upon receipt of such documentation, a Secretarial letter will be issued advising that Nicole Energy Services, Inc. is in compliance with the bonding requirement.

Nicole Energy Services, Inc. has provided the required Pennsylvania Emergency Management Agency ("PEMA"), contact information.

As of January 4, 2000, no protests have been filed.

We find that the applicant:

1. Is fit, willing and able to properly perform the service proposed in conformance with applicable provisions of the Public Utility Code and the Commission orders and regulations, specifically including

52 Pa. Code Chapter 56 (relating to Standards and Billing Practices for Residential and Small Commercial Utility Service).

2. Has agreed to abide by all Commission regulations, procedures and orders, including Emergency Orders which may be issued verbally, or in writing during any emergency situations that may develop from time-to-time in the course of doing business in Pennsylvania.
3. Has proposed to offer natural gas supply services which, to the extent authorized by the license, will be consistent with the public interest and the policy declared in the Natural Gas Choice and Competition Act.

Upon full consideration of all matters of record, we find that approval of this application is necessary and proper for the service, accommodation and convenience of the public; **THEREFORE,**

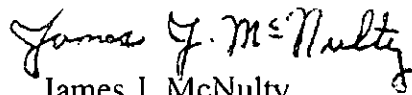
IT IS ORDERED:

1. That the application of Nicole Energy Services, Inc. is hereby approved, consistent with this Order.
2. That a license be issued authorizing Nicole Energy Services, Inc. the right to begin to offer, render, furnish or supply natural gas supply services to the public within the following local distribution company service territories within the Commonwealth of Pennsylvania: Columbia Gas of Pennsylvania, Inc., R-00994781;

The Peoples Natural Gas Company, R-00994782; Equitable Gas Company, R-00994784 and National Fuel Gas Distribution Corp., R-00994785.

3. That this license is granted contingent upon Nicole Energy Services, Inc. providing evidence to the Commission within 30 days of the completion of the restructuring proceedings encompassing the following natural gas distribution company territories in which Nicole Energy Services, Inc. has applied to provide natural gas supply services: Columbia Gas of Pennsylvania, Inc., R-00994781; The Peoples Natural Gas Company, R-00994782; Equitable Gas Company, R-00994784 and National Fuel Gas Distribution Corp., R-00994785, documenting its compliance with the bonding requirement at 66 Pa. C.S. § 2208(c) for each of the above mentioned natural gas distribution companies.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: January 27, 2000

ORDER ENTERED: **JAN 27 2000**

SENDER:

- Check box at right if you require restricted delivery.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

A-125049 0
SHIRLES L MAYS ESQ
NICOLE ENERGY SERVICES INC
513 E RICH ST SUITE 306
COLUMBUS OH 43215

4a. Article Number

P 971 952 741

4b. Service Type CERTIFIED

7. Date of Delivery FEB 01

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *Beth Barnett*

8. Addressee's Address

PS Form 3811, December 1994

Domestic Return Receipt