

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Joint Petition for Generic Investigation or	:	
Rulemaking Regarding "Gas-On-Gas" Competition	:	P-2011-2277868
Between Jurisdictional Natural Gas Distribution	:	
Companies	:	
	:	
Generic Investigation Regarding Gas-On-Gas	:	
Competition Between Jurisdictional Natural	:	I-2012-2320323
Gas Distribution Companies	:	
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**REPLY BRIEF ON BEHALF
OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION**

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March 12, 2014

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**BRIEF ON BEHALF
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INTRODUCTION

Main Briefs in this proceeding were filed on February 25, 2014 by National Fuel Gas Distribution Corporation (“Distribution” or “the Company”), Peoples Natural Gas Company LLC (“Peoples”), Columbia Gas of Pennsylvania, Inc. (“Columbia”), the Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Industrial Energy Consumers of Pennsylvania (“IECPA”) and the Pennsylvania State University (“PSU”). This Reply Brief will present Distribution’s position on the arguments made in those main briefs.

DISCUSSION

As Distribution noted in our Main Brief, the Company does not currently engage in any gas-on-gas competition and has not done so for a number of years. Consequently, Distribution does not have a direct interest in gas-on-gas competition at this time. Moreover, Distribution

would note that, by reason of the subsequent approval (granted at Docket No. A-2013-2353647) of the sale of Equitable Gas Company, LLC (“Equitable”) to Peoples and Equitable’s merger into Peoples, gas-on-gas competition (including the need for this proceeding) – which was always limited geographically to parts of Western Pennsylvania - is now significantly reduced from even its former, limited context. Peoples points out, for example, that the number of customers involved in gas-on-gas competition has been reduced from approximately 401 to now just 74 customers. Peoples Main Brief, p. 22. I&E recognizes, moreover, that these 74 customers produce a total “revenue shortfall” of \$4.3 million. I&E Main Brief (at p. 24). Consequently, on a statewide basis, the issue of gas-on-gas competition is not one of the major policy matters with which the Commission must grapple.

Distribution has further considered the position of Peoples regarding the appropriate scope and standard of review in this investigation. Peoples Main Brief, pp. 12-15, 29-30. After such consideration, Distribution believes that Peoples’ exposition of the law and constraints governing this investigation proceeding is fundamentally sound and should inform the Administrative Law Judge’s consideration of this matter.

Consequently, the solution that will offer the least disruption to the diminished *status quo*, the smallest adverse effect on customers and the most modest expenditure of the resources of the Commission and all of the stakeholders in this case would appear to be the wisest course of action to follow.

At this point there appear to be three positions in this case.

At one end of the spectrum, OCA and I&E variously stake claim to a position that gas-on-gas competition must be immediately (or in short order) ended, that competition only be

permitted, if at all, at tariffed rates and that any so-called “subsidy” by the remaining body of ratepayers of any shortfall from gas-on-gas competition be ended.¹

At the other end of the spectrum, IECPA and PSU argue that the existing situation, with all of its false “competition” and subsidies must be maintained.

The third course, the middle ground staked out by Peoples, Columbia and Distribution, is the wisest course to follow. In this regard, Distribution is prepared to endorse the compromise offered by Peoples and supported in Columbia’s brief. We are persuaded that the more immediate and rigid remedies supported by OCA, I&E and to a lesser extent OSBA, will create stranded costs and economic disruption for which the utilities will suffer shortfalls if they decide to compete. The extreme remedy of prohibiting competition, even at cost-based rates will create needless legal issues (explained by Peoples in its Main Brief) and actual hardship to the large commercial and industrial customers that relied on such discounts in the past in making business decisions and will see such discounts summarily ended.

At the same time, IECPA and PSU fail to realize that some limits must be placed on gas-on-gas competition in the future, lest the “race to the bottom” that such competition can represent creates artificially low rates for some few customers that are improperly subsidized by the rest.

Distribution, though the testimony of Mr. Meinel, previously endorsed competition at rates that permit the utility to recover the cost of providing the service so that no undue subsidy will result. As we understand it, Peoples’ subsequent recommendation that cost based rates be used in gas-on-gas competitive situations is generally consistent with that view. *See* Peoples’ Brief at 23. While the Company continues to support the recommendation in its brief, Distribution does

¹ OSBA takes a somewhat more moderate position of arguing that “gas-on-gas discounting be reasonably phased out over as short a time period as is practicable and that NGDCs be required to compete on regular tariff rates going forward.” OSBA Brief at 16. OSBA also argues that discounts may continue and that NGDCs be permitted to recover any shortfall, but only until the end of 2016. OSBA Brief at 17.

believe that the proposal advanced by Peoples would be a practical and workable alternative. Distribution therefore could support Peoples' proposal that any gas-on-gas competition in the future would only be permitted based on such cost-based rates expressed in Peoples' surrebuttal testimony and in its Main Brief.

Furthermore, in order to limit the disruption to customers who might have made decisions based on their discounted contract rates, Distribution believes that equity counsels that such rates for gas-on-gas competition be permitted to remain in effect through the expiration of the contract term. As IECPA points out, gas-on-gas competition has existed for many decades and "gas-on-gas rates agreed to in these contracts have been relied upon by customers in projecting their energy costs over the duration of their contracts." IECPA Main Brief, p. 22.

Finally, Distribution endorses the view that it would be equitable to permit a utility that offered discounted rates for gas-on-gas competition to continue to recover the cost of such discounted rates through the term of the contracts. Equity requires such a result because those contracts were entered into subject to a Commission-sanctioned policy that did not preclude such discounting for gas-on-gas competition. If Peoples' reasoned approach to the ultimate elimination of below-cost competition is adopted, along with the expiration of contracts at their term, the "problem" of subsidies will be eliminated in relatively short order. In any event, the "problem" has shrunk dramatically since the inception of this investigation and the dollars involved will decline with the expiration of each contract. Accordingly, it would not be inappropriate to permit utilities to continue to recover these limited subsidies during this transition phase.

CONCLUSION

For all the above reasons, Distribution believes that the proposal of Peoples, endorsed by Columbia, represents a reasoned path to the ultimate elimination of gas-on-gas discounting at rates below the cost of providing such service. Given the now extremely limited nature of gas-on-gas competition, such a gradual resolution is in the best interests of all stakeholders in this proceeding. Therefore, Distribution proposes that the Administrative Law Judge recommend that the Commission adopt the resolution offered by Peoples and issue it for the appropriate notice and comment.

Respectfully submitted,



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CERTIFICATE OF SERVICE
Docket Nos. P-2011-2277868 and I-2012-2320323

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).

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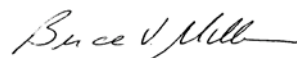
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