

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

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Public Meeting held March 31, 2011

Commissioners Present:

Robert F. Powelson, Chairman  
John F. Coleman, Jr., Vice Chairman  
Tyrone J. Christy  
Wayne E. Gardner  
James H. Cawley

Petition of Shipley Energy Company,  
Application of Shipley Choice LLC  
to become a licensed supplier of natural gas  
services and Abandonment of the Natural Gas  
Supplier License of Shipley Energy Company

Docket Number:

A-125015

A-2010-2201675

**ORDER**

**BY THE COMMISSION:**

On September 23, 2010, Shipley Energy Company (SEC) filed a Petition requesting transfer of its license to Shipley Choice LLC. Additionally, Shipley Choice LLC (SCL) filed a License Application to operate as a supplier of natural gas supply services in the service territories of Columbia Gas of Pennsylvania Inc., PECO Energy Company, UGI Central Penn Gas, Inc. and UGI Utilities, Inc., within the Commonwealth of Pennsylvania. This application was filed pursuant to section 2208 of the Natural Gas Choice and Competition Act (Act) and Title 52 of the Pennsylvania Code, Chapter 62, Subchapter D.

§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.

SCL has stated that upon the approval of this Application, it proposes to provide natural gas supply services to residential, small commercial (less than 6,000 MCF annually), large commercial (6,000 MCF or more annually), industrial and governmental customers in the service territories of Columbia Gas of Pennsylvania Inc., PECO Energy Company, UGI Central Penn Gas, Inc. and UGI Utilities, Inc. SEC has stated that once SCL is licensed, SEC intends to transfer its present customers to SCL and to abandon its license. SEC provides that nothing will change with regard to any customers now being served by it because the name on the bill will remain the same and all aspects of the contracts currently provided by SEC will be transferred with identical terms and conditions to SCL. Petition at 2.

SCL is advised that if it wishes to serve customers in additional service territories in the future, it must notify the Commission Secretary by letter immediately to amend its license accordingly.

It is important to note that a licensee must comply with, and be governed by, applicable Chapter 56 residential service regulations as set forth in the Commission Order *Guidelines for Maintaining Customer Service at the Same Level of Quality Pursuant to*

66 Pa. C. S. §2206(a), *Assuring Conformance with 52 Pa. Code Chapter 56 Pursuant to 66 Pa. C.S. §2207(b), §2208(e) and (f) and Addressing the Application of Partial Payments* (M-00991249 F003). 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 accounts. A natural gas supplier cannot physically disconnect a residential customer from the distribution system, and thus, the rules relating to residential service termination 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 residential customer can then attempt to repair his or her 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 appropriate regulations if the customer failed to meet his or her 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.

Regarding the financial and technical fitness requirements of the license application, SCL has submitted the combined financial statements for the Shipley Companies for the years ended December 31, 2008 and 2009. SCL is owned by The Shipley Group LP, a subsidiary of Shipley Holding, LLC. The financial statements were audited by independent auditors in accordance with auditing standards generally accepted in the United States of America. SCL has also provided information about key operating personnel and will be staffed by the same people who currently staff the NGS functions within SEC. Petition at 2. Based on SCL's expertise and financial information, at this time it appears that SCL is qualified to supply natural gas supply services.

Section 2208(c)(1), 66 Pa. C.S. §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 is set forth in the natural gas distribution company's tariff. 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 amount of bond or other financial security "shall be determined by criteria approved by the Commission." SCL has provided documentation to evidence its compliance with the Section 2208(c) bonding requirement for the following natural gas distribution company service territories: Columbia Gas of Pennsylvania Inc., PECO Energy Company, UGI Central Penn Gas, Inc. and UGI Utilities, Inc.

Additionally, we specifically note that the licensee must comply with, and ensure that its employees, agents, representatives and independent contractors comply with the standards of conduct and disclosure for licensees set out in Commission regulations at 52 Pa. Code § 62.114 that were enacted to protect consumers of this Commonwealth. These standards include, *inter alia*, the provision of timely and accurate information about the services offered by the licensee, the practice of nondiscrimination in service in regard to race, color, religion, national origin, marital status, etc., the safeguarding of a customer's personal information, and compliance with applicable state and federal consumer protection laws. Also, we take this opportunity to remind the licensee of its agreement to abide by, and to ensure that its employees, representatives, agents and independent contractors abide by all applicable federal and state laws, and Commission regulations, procedures, and orders, including Emergency Orders, which may be issued verbally or in writing during any emergency situations that may unexpectedly develop from time to time in the course of doing business.

SCL has published notice of its application in the Pennsylvania newspapers as required by the Commission to provide service in the service territories of Columbia Gas of Pennsylvania Inc., PECO Energy Company, UGI Central Penn Gas, Inc. and UGI Utilities, Inc., and proofs of service to the interested parties as required by the Commission. As of March 22, 2011, no protests have been filed. SCL has also provided the required Pennsylvania Emergency Management Agency (PEMA) contact information.

We find that SCL:

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 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 SCL's license application is necessary and proper for the service, accommodation and convenience of the public.

This filing also involves the abandonment of SEC's NGS license. Title 52, Chapter 62, Subchapter D, Section 62.112, requires that a NGS licensee provide written individual notice to customers at approximately 90 days and 60 days preceding the effective date of an abandonment. However, since SEC intends to transfer its customers to SCL, we will waive the provision of Title 52, Chapter 62, Subchapter D, Section 62.112, regarding written individual notice to customers at approximately 90 days and 60 days preceding the effective date of an abandonment and direct SEC to provide at least 30 days notice to its customers before their accounts are transferred to SCL, per the provisions of the Interim Guidelines Regarding Notification By a Natural Gas Supplier of Operational Changes Affecting Customer Service and Contracts, at Docket No. M-00001343.

We also believe that the abandonment of SEC's license may have an impact on the public, natural gas distribution companies or suppliers of last resort. Therefore, we will direct SEC to publish notice of the abandonment of SEC's NGS license in the newspapers appropriate for the service territories of Columbia Gas of Pennsylvania Inc., PECO Energy Company, UGI Central Penn Gas, Inc. and UGI Utilities, Inc., per the market exit notice provisions of the Interim Guidelines Regarding Notification By a Natural Gas Supplier of Operational Changes Affecting Customer Service and Contracts, at Docket No. M-00001343.

We will also hold the cancellation of SEC's NGS license in abeyance until SEC affirms that it has published the appropriate newspaper notices and provided the appropriate notice to customers, per the discussion in this order; **THEREFORE,**

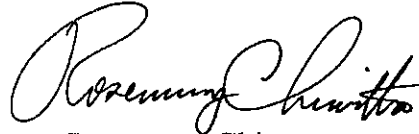
**IT IS ORDERED:**

1. That the application of Shipley Choice LLC is hereby approved, consistent with this Order.
2. That a license be issued authorizing Shipley Choice LLC the right to begin to offer, render, furnish or supply natural gas supply services to residential, small commercial (under 6,000 MCF annually), large commercial (6,000 MCF or more annually), industrial and governmental customers within the following local distribution company service territories: Columbia Gas of Pennsylvania Inc., PECO Energy Company, UGI Central Penn Gas, Inc. and UGI Utilities, Inc., within the Commonwealth of Pennsylvania.
3. That Shipley Energy Company is directed to comply with the market exit notice and customer notice requirements in the Interim Guidelines Regarding Notification By a Natural Gas Supplier of Operational Changes Affecting Customer Service and Contracts, at Docket No. M-00001343 (Interim Guidelines), consistent with the discussion in this Order.
4. That upon compliance with Ordering Paragraph No. 3, the Secretary shall strike Shipley Energy Company's name from all active utility lists maintained by the Annual Report Section of the Secretary's Bureau and the Assessment Section of the Bureau of Administration Services.
5. That upon compliance with Ordering Paragraph No. 3, the license of Shipley Energy Company is cancelled and the proceeding at Docket No. A-125015 be closed.



6. That the proceeding, at Docket No. A-2010-2201675, be closed.

**BY THE COMMISSION,**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: March 31, 2011

ORDER ENTERED: April 4, 2011

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ATTORNEY STEVEN K HAAS  
SHIPLEY CHOICE LLC  
HAWKE MCKEON & SNISCAK LLP  
100 N. TENTH STREET  
HARRISBURG PA 17101

A-2010-2201675 - E-SERVE  
ATTORNEY TODD S STEWART  
SHIPLEY CHOICE LLC  
HAWKE MCKEON & SNISCAK LLP  
100 NORTH TENTH STREET  
HARRISBURG  
PA PA 17101

**9171 9690 0935 0002 2329 49**

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CHIEF FINANCIAL OFFICER RICHARD BEAMESDERFER  
SHIPLEY CHOICE LLC  
SHIPLEY CHOICE LLC D/B/A SHIPLEY CHOICE SHIPLEY ENERGY  
415 NORWAY STREET  
PO BOX 946  
YORK PA 17403

**9171 9690 0935 0002 2329 70**