UGI
CORPORATION

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March 24, 2014

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Term; Docket No. L-2014-2409385

Dear Secretary Chiavetta:

Enclosed please find the comments of UGI Energy Services, LLC in response to the Commission's Secretarial Letter dated March 19, 2014, in the above-captioned proceeding.

Should you have any questions concerning this submission, please feel free to contact me at (610)-992-3750 or elatiehm@ugicorp.com.

Respectfully yours,

Melanie J. El Atieh
Attorney for UGI Energy Services, LLC

Enclosure

Cc: Office of Competitive Market Oversight (via e-mail at ra-OCMO@state.pa.us)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Term	:	**Docket No. L-2014-2409385**

COMMENTS OF UGI ENERGY SERVICES, LLC

I. INTRODUCTION

On March 19, 2014, the Pennsylvania Public Utility Commission ("Commission") issued a Secretarial Letter in the above-captioned docket to inform interested stakeholders that the Commission intends to promulgate a rulemaking which will amend existing Regulations at 52 Pa. Code, Chapter 54 to revise disclosure statement requirements for residential and small business customers and propose a new section to Chapter 54 that would codify, with some modifications, existing contract renewal/change in term notice requirements. The Commission stated that due to the recent impact of wholesale electricity market price increases on Pennsylvania consumers, and concerns that similar events could occur again in the immediate future, the Commission has determined that for good cause and to serve the public interest the rulemaking will take the form of a "final-omitted" proceeding pursuant to 45 P.S. § 1204(3); 71 P.S. §§ 745.5a and 745.6. The Commission attached a draft of the proposed regulations to the Secretarial Letter in order to provide opportunity for interested stakeholders to provide comments which the Commission required be filed no later than five (5) days of the date of the Secretarial Letter.

UGI Energy Services, LLC d/b/a UGI EnergyLink ("UGIES" or the "Company"), a Commission-licensed Electric Generation Supplier ("EGS") at Docket No. A-2013-2369288,[1] hereby submits comments to the Commission's proposed rulemaking. The Company commends the Commission's efforts to respond to the recent electricity market events and appreciates the opportunity to provide comments on this important rulemaking. UGIES believes that

[1] The Company, formerly known as UGI Energy Services, Inc. d/b/a UGI EnergyLink, was initially licensed by the Commission as an EGS on July 24, 1998 at Docket Nos. A-110076. Effective October 1, 2013, the Company underwent an intra-corporate merger solely for the purpose of converting its corporate form of organization from a Pennsylvania corporation to a Pennsylvania limited liability company ("LLC"), changing its name to UGI Energy Services, LLC while maintaining its trade name, UGI EnergyLink (the "LLC Conversion"). In connection therewith, the Company sought and obtained prior Commission approval to transfer the Company's EGS license to the successor LLC entity, UGI Newco, LLC ("Newco"). Specifically, on September 12, 2013, the Commission entered an Order at Docket No. A-2013-2369288, authorizing the transfer of and issuing an EGS license to Newco, and in the same docket, the Commission issued a Secretarial Letter on November 15, 2013, approving a name change on the EGS license to UGI Energy Services, LLC d/b/a UGI EnergyLink.

appropriate policy and procedural changes are needed at both the federal and state levels to address the wholesale market price increases that occurred during January and February this winter, including, among other things, additional consumer protection rules to enhance price transparency and improve customer education about the inherent risks of variable-priced supply products, and we support the Commission's efforts in this regard, including the Commission's robust enforcement of such customer protection rules.

II. COMMENTS TO PROPOSED REGULATIONS

A. Background

UGIES is a Commission-licensed EGS and Natural Gas Supplier ("NGS") and markets electricity, natural gas and liquid fuels to approximately 43,000 customers in nine eastern states, including over 7,500 retail electric customers in Pennsylvania. It also owns and operates 252 MW of electric generation assets as well as various natural gas storage and peaking assets located in Pennsylvania. In addition, UGIES markets liquefied natural gas to mobile and stationary end users and operates and develops midstream projects in the Marcellus Shale region.

This past January and February, the combination of sustained cold weather and high demand by consumers for electricity and natural gas caused unprecedented price spikes in wholesale electricity and natural gas markets, including the wholesale electric market administered by the PJM Interconnection, L.L.C. ("PJM"). Relying on locational marginal prices ("LMP") published by PJM, we calculate that the average real-time LMP in January was over 300% higher compared to the average real-time LMP in December. Every retail supplier and utility experienced these unprecedented upstream costs to the extent they purchased supplies in the wholesale market at this time. Variable-priced electric retail customers, especially, saw significant increases in their January bills as a result of the record-setting increases in electric wholesale prices.

For UGIES' customers that purchased natural gas or electricity under fixed price contracts, every single one of our customers received their contracted quantity and price in January. For our customers that purchased energy under variable-priced contracts, their rates were based on the prevailing wholesale market prices then in effect. For these customers, the increases in variable rates experienced this past winter were limited to cover the costs of higher wholesale power which UGIES experienced in purchasing electricity in the wholesale market during the month.

As a result of the unprecedented increase in wholesale electricity prices, the Company experienced unprecedented levels of complaints from customers on variable rates in January. We recognize that the Commission and the Office of Consumer Advocate ("OCA") have also experienced unprecedented levels of consumer complaints. In the interest of maintaining good customer relations over the long term, the Company remains committed to trying to resolve each of these complaints and to assist all of its residential and small business customers who were affected by these market price increases during this time. While the spike in energy prices this winter was largely attributable to the natural interaction of supply and demand during an unusually cold winter, UGIES recognizes that high energy bills represent a very real hardship for many customers. To help defray these costs, we are voluntarily providing partial rebates for the

January bills of all of our residential and small business customers in Pennsylvania who were on variable rates (approximately 3,500 customers) and who agree to a fixed rate service going forward. We also are offering to spread the January and February costs over future months, assisting our customers to enroll in utility payment arrangement plans and to the extent applicable, waiving early termination fees for customers who elect to return to default service or switch to another EGS.

While variable-priced retail contracts contributed to high energy bills this winter, this pricing tool must be considered in a broader context. Variable pricing has been financially beneficial for many of our customers when viewed over a longer term. For example, in 2012, variable-priced customers benefited from low demand and falling power prices and their market-based rates were lower than most fixed price offers.

With that said, as stated above, we believe that appropriate policy and procedural changes are needed at both the federal and state levels to address the events that occurred in electricity markets this winter, including, among other things, additional consumer protection rules to enhance price transparency and improve customer education about the inherent risks of variable-priced supply products, and we support the Commission's efforts in this regard, including the Commission's robust enforcement of such customer protection rules. We believe the instant proposed rulemaking represents a critical step in this regard.

B. Proposal to Amend Existing Regulations at 52 Pa. Code, Chapter 54 to Revise Disclosure Statement Requirements for Residential and Small Business Customers

Overall, UGIES supports the Commission's amendments to the existing regulations at 52 Pa. Code 54.5 with respect to the disclosure statement requirements for residential and small business customers. We believe these clarifications and amendments will enhance the accuracy and timeliness of information conveyed to consumers about variable price offerings and thus help to improve customer education on the topic. We offer the following comments and suggestions.

i. Amendments to Section 54.5(c)(2)(i)&(ii)

In the proposed rulemaking, the Commission proposed to amend Section 54.5(c)(2)(ii) by adding the following subsections:

> "(A) IF THERE IS A LIMIT ON PRICE VARIABILITY, SUCH AS A SPECIFIC PRICE CAP, A MAXIMUM PERCENTAGE INCREASE IN PRICE BETWEEN BILLING CYCLES OR MINIMUM/MAXIMUM CHARGES PER KILOWATT-HOUR FOR ELECTRICITY DURING THE TERM OF THE CONTRACT, THE EGS SHALL CLEARLY EXPLAIN THE APPLICABLE LIMITS.
>
> (B) IF THERE IS NO LIMIT ON PRICE VARIABILITY, THE EGS SHALL CLEARLY AND CONSPICUOUSLY STATE THAT THERE IS NO LIMIT

ON HOW MUCH THE PRICE MAY CHANGE FROM ONE BILLING CYCLE TO THE NEXT BILLING CYCLE."

We believe these additions to Section 54.5(c) are important clarifications to the existing regulations because the existing regulations do not clearly require EGSs to include a statement in the disclosure statement if no limit on price variability applies. Currently, Section 54.5(c)(2) provides that the "variable pricing statement, *if applicable*, must include (i) conditions of variability (state on what basis prices will vary). (ii) limits on price variability." 52 Pa. Code § 54.5 (emphasis added). One interpretation of the existing regulation is that a statement on the limits of price variability must be included "if applicable." Thus, existing EGS disclosure statements may not contain a statement that there is no limit on price variability. The proposed amendments eliminate this potential interpretation by clearly requiring the EGS to clearly and conspicuously state that there is no limit on how much the price may change from one billing cycle to the next.

To further clarify this language, we propose that the Commission consider the following changes to Section 54.5(c)(2):

> "(2) ~~The variable pricing statement, if applicable, must include:~~ <u>FOR CONTRACTS WITH VARIABLE PRICING, THE DISCLOSURE STATEMENT MUST INCLUDE A STATEMENT INDICATING</u>:"

Furthermore, we believe it is important that the regulations provide clarity with respect to how EGSs may communicate "conditions of variability" and the basis on which prices will vary per Section 54.5(c)(2)(i). While we recognize that the criteria may vary by EGS based on the product offered by the EGS, we believe there is an opportunity to standardize the language to apply when an EGS is simply offering, for the energy portion of the customer's Generation Charge,[2] a monthly variable price that changes with changes in the prevailing PJM LMPs, whether day-ahead or real-time, and passes through the PJM capacity, transmission, ancillary and administrative charges incurred as a result of serving the EGS' contractual load obligations. We offer such standardized language below as well as requirements for variable-priced products offered by EGSs that are not based on the prevailing PJM wholesale market prices.

Moreover, we believe it is important that customers understand in such circumstances that the actual price the customer will pay will be calculated at the end of the applicable billing cycle and that any indicative pricing provided to the customer mid-billing cycle is only an estimate and may not reflect the actual price the customer will be required to pay at the end of the applicable billing cycle. Appropriate disclaimer language should be included to warn customers about the meaning of estimated prices versus the actual price they will pay.

To address these concerns, we propose amending Section 54.5(c)(2)(i) as follows:

> "(i) Conditions of variability (state on what basis prices will vary).

[2] Noting here that the Generation Charge is an all-inclusive price that may include other charges, including, but not limited to, gross receipts tax and costs for compliance with Alternative Energy Portfolio Standards Act.

<u>(A) IF THE VARIABLE PRICE THE EGS OFFERS IS A MONTHLY VARIABLE PRICE BASED ON THE PREVAILING PJM WHOLESALE MARKET PRICES, THE EGS MAY INCLUDE THE FOLLOWING STATEMENT IN THE DISCLOSURE STATEMENT: "THE GENERATION CHARGE YOU WILL PAY WILL VARY MONTH-TO-MONTH BASED ON PJM WHOLESALE MARKET PRICES THEN IN EFFECT. THE ACTUAL GENERATION CHARGE YOU WILL PAY DURING AN APPLICABLE MONTHLY BILLING CYCLE WILL BE DETERMINED BY THE EGS AT THE END OF THE APPLICABLE BILLING CYCLE. TO OBTAIN AN ESTIMATE OF YOUR MONTHLY GENERATION CHARGE DURING A BILLING CYCLE, YOU MAY CONTACT YOUR EGS TO REQUEST AN ESTIMATED PRICE. PLEASE NOTE THAT ESTIMATED PRICES MAY NOT BE INDICATIVE OF THE ACTUAL GENERATION CHARGE YOU WILL PAY FOR THE APPLICABLE BILLING CYCLE."</u>

<u>(B) IF THE VARIABLE PRICE OFFERED BY AN EGS WILL VARY BASED ON CRITERIA OTHER THAN AS PROVIDED IN SUBSECTION (A), THE DISCLOSURE STATEMENT MUST CLEARLY AND CONSPICUOUSLY STATE THE CONDITIONS OF VARIABILITY, WHEN THE ACTUAL GENERATION CHARGE TO BE PAID BY A CUSTOMER DURING A BILLING CYCLE IS TO BE CALCULATED, AND AN EXPLANATION THAT ANY ESTIMATED PRICE PROVIDED BY THE EGS MAY NOT BE INDICATIVE OF THE ACTUAL GENERATION CHARGE THE CUSTOMER WILL PAY DURING THE BILLING CYCLE</u>."

We believe adding these sections to the regulations will improve customer education and understanding about monthly variable prices as well as provide regulatory certainty for all stakeholders in terms of what constitutes acceptable language for conveying the basis on which prices will vary.

ii. <u>Addition of Section 54.5(c)(2)(iii)</u>

In the proposed rulemaking, the Commission proposed to amend Section 54.5(c)(2) by adding the following subsection (iii):

"(c) The contract's terms of service shall be disclosed, including the following terms and conditions, if applicable:

(III) THE PRICE TO BE CHARGED, PER KILOWATT-HOUR, FOR THE FIRST BILLING CYCLE OF GENERATION SERVICE."

UGIES supports this addition and believes it is reflective of the current practice of many EGSs today.

iii. Addition of Section 54.5(c)(10)

The Commission's proposed regulations under Section 54.5(c)(10) include the provision "limits on price variability" as one of the provisions among others that shall be printed in type size larger than the type size appearing in the disclosure statement. To the extent that the purpose of this provision is solely to govern the appearance of this statement (in font size larger than other terms appearing in the EGS disclosure statement) while the substance of such statement is governed under Section 54.5(c)(2)(ii), we support this addition. If the purpose of this provision is for any other reason, we respectfully request clarification from the Commission.

iv. Addition of Section 54.5(c)(14)

UGIES generally supports the additions of Section 54.5(c)(14)(i) and (ii) in the proposed rulemaking and acknowledges the need to increase pricing transparency for variable-priced customers. However, as described in more detail below, we have concerns over the language in subsections (iii) and (iv) in this section and thus seek clarification and offer alternative language.

Subsection (iii) of the proposed rulemaking provides as follows:

> "(14) FOR CONTRACTS WITH VARIABLE PRICING, THE EGS SHALL PROVIDE:
>
> (III) INFORMATION REGARDING WHEN THE CUSTOMER WILL BE MADE AWARE OF EACH PRICE CHANGE."

With respect to subsection (iii), we seek clarification of the intent of this provision. For EGSs simply offering a monthly variable price that essentially changes with changes in prevailing market prices, the actual price the customer will pay will be calculated by the EGS at the end of the applicable billing cycle. To the extent the Commission is requiring in this language for an EGS to provide notification to the customer at the end of each billing cycle of the monthly change in price, such notification may seem redundant to the invoice received by the customer and thus unnecessary. Furthermore, the Company seeks clarification that this provision is not requiring an EGS to be required to provide forward price projections and is only relating to price changes that are known by the EGS.

In addition, UGIES offers concerns and alternative language for subsection (iv) of the Commission's proposed rulemaking, which provides as follows:

> "(14) FOR CONTRACTS WITH VARIABLE PRICING, THE EGS SHALL PROVIDE:
>
> (IV) NOTICE TO CUSTOMERS OF A RATE INCREASE OF MORE THAN 50% OVER THE PRIOR BILLING CYCLE AS SOON AS THE EGS BECOMES AWARE THAT SUCH AN INCREASE WILL OCCUR. FOR CUSTOMERS WHO HAVE ELECTED TO RECEIVE ELECTRONIC COMMUNICATIONS FROM THE EGS, THE NOTICE OF THE RATE INCREASE WILL BE TRANSMITTED IN THE MANNER CHOSEN BY

THE CUSTOMER. FOR ALL OTHER CUSTOMERS, NOTICE WILL BE PROVIDED BY DIRECT MAIL."

This provision places an onerous requirement on EGSs that could be impracticable to satisfy and may not necessarily result in meaningful communications to customers about changes in monthly variable prices as the Commission intends.

To illustrate, UGIES pulled historical data of a sample small business customer in the EDC service territory of Metropolitan Edison ("MetEd") that was on variable pricing during the 12-month period of calendar year 2013 and the variable price charged to the customer was based on the load weighted average of the PJM day-ahead LMP. Based on this section of the proposed rulemaking, if UGIES would have been required to notify customers based on an average daily basis of a 50% increase in their previous variable rate, the Company would have notified this customer at least five times between May 31st and August 1st of this 50% increase. However, this customer's highest bill (June/July) was only approximately 15% higher than their lowest bill (March/April). Meanwhile, *all* of the monthly bills, including the customer's highest bill, reflected prices that were lower than MetEd's price to compare, averaging a 7.5% savings for the customer. If the requirement were changed so that the EGS would be required to notify the customer when hourly pricing exceeds the previous rate variable rate, the Company would have notified the customer more than 200 times during this period. However, if the trigger requiring a notice to customers was changed to an objective price ceiling, such as the day-ahead or real-time LMPs being sustained over $150/MW for more than eight hours, we would *not* have notified the customer once during this time period.

We propose that the Commission's Office of Competitive Marketplace Oversight ("OCMO"), in its role as the Commission's electric retail choice ombudsman, be given the responsibility of monitoring the PJM wholesale electricity market to determine when LMPs, day-ahead or real-time, reach a sustained price trigger level that, upon finding by the Commission, may result in significant price increases for consumers on variable rates and thus justifies warning consumers of such potential rate increases. In such event, OCMO should notify EGSs when their obligation to alert residential and small business customers of potential significant increases in variable rates is triggered. EGSs then should be required to notify customers in the manner proposed by the Commission and should be obligated to file a compliance report with the Commission within five (5) days after the date of the Commission's notice.

Accordingly, we propose the following amendment to subsection (iv) relating to the statement that should be included in EGS disclosure statements and a new subsection (15) directing EGSs to take required action as may be directed by the Commission:

"(14) FOR CONTRACTS WITH VARIABLE PRICING, THE EGS SHALL PROVIDE:

(IV) NOTICE TO CUSTOMERS OF A <u>POTENTIAL</u> RATE INCREASE ~~OF MORE THAN 50% OVER THE PRIOR BILLING CYCLE AS SOON AS THE EGS BECOMES AWARE THAT SUCH AN INCREASE WILL OCCUR.~~ <u>IN ACCORDANCE WITH THE COMMISSION'S DIRECTION</u>. FOR CUSTOMERS WHO HAVE ELECTED TO RECEIVE ELECTRONIC

COMMUNICATIONS FROM THE EGS, THE NOTICE OF THE RATE INCREASE WILL BE TRANSMITTED IN THE MANNER CHOSEN BY THE CUSTOMER. FOR ALL OTHER CUSTOMERS, NOTICE WILL BE PROVIDED BY DIRECT MAIL."

(15) WITHIN FIVE DAYS OF THE DATE OF THE COMMISSION DECLARING AN ELECTRICITY MARKET PRICING EVENT THAT MAY RESULT IN SIGNIFICANT PRICE INCREASES FOR CUSTOMERS ON VARIABLE RATES, THE EGS SHALL NOTIFY ITS RESIDENTIAL AND SMALL BUSINESS CUSTOMERS ON VARIABLE PRICING IN ACCORDANCE WITH THE COMMISSION'S DIRECTION AND FILE WITH THE COMMISSION'S SECRETARY BUREAU A COPY OF THE NOTICE SENT TO CUSTOMERS ALONG WITH A VERIFICATION EVIDENCING THAT SUCH NOTICE WAS SENT TO ALL OF THE EGS' RESIDENTIAL AND SMALL BUSINESS CUSTOMERS ON VARIABLE PRICING. IN NO EVENT SHALL AN EGS BE REQUIRED TO NOTIFY CUSTOMERS OF AN ELECTRICITY MARKET PRICING EVENT MORE THAN ONCE. THE COMMISSION SHALL NOTIFY EGSs UPON THE CONCLUSION OF THE ELECTRICITY MARKET PRICING EVENT AND THE EGS MAY NOTIFY ITS CUSTOMERS ACCORDINGLY."

Under this proposal, similar to a utility issuing an operational flow order, or the Governor declaring a state of emergency, the Commission shall declare an electricity market pricing event that may result in significant price increases for those retail customers on variable rates. In carrying out this role, the Commission should rely on reasonable criteria to ensure the signaling of real pricing disruption events as opposed to the normal seasonal variability of pricing, which responds to shorter weather events like a three-day heat wave. The Commission would be free to consult with PJM, the OCA and other interested stakeholders before declaring a pricing event. Moreover, in the interest of providing meaningful communications to customers, EGSs should not be required to send out notices to customers more than once, which presumably will be at the start of the pricing event.

To illustrate, using the same MetEd customer referenced above, and the same criteria above of hourly LMP at or above $150/MW sustained for a consecutive 8-hour period, during this past winter period of January 1, 2014 through February 28, 2014, the day-ahead pricing exceeded this criteria 15 times, with nine of those days occurring consecutively starting on January 21, 2014. The real-time pricing exceeded this criteria 19 times. Notifying customers 15-19 times may cause unnecessary customer alarm as well as frustration and dissatisfaction, which could have a negative impact on variable-priced products, specifically, and on retail choice, generally.

We believe the proposal above addresses the Commission's concern about customers having adequate advance notice of potential price increases and will result in a more manageable regulatory burden for EGSs and in more meaningful communications to customers about potential rate increases. It provides the Commission sufficient discretion and authority in monitoring market conditions and making a determination, on a case by case basis, as to when market conditions necessitate an alert to be sent out by EGSs to customers and to prescribe the language to be included in such consumer notices. This proposal also provides the Commission an effective enforcement tool relating to the required action to be taken by EGSs by requiring EGSs to file proof of compliance within five days of the date of the Commission's directive.

v. Amendment to Section 54.5(g)

UGIES supports the amendments to Section 54.5(g).

vi. Addition of Section 54.5(i)

In the proposed rulemaking, the Commission proposed to add a new Section 54.5(i) that requires the EGS to provide, along with the disclosure statement, a separate EGS contract summary in a format provided by the Commission. UGIES believes this requirement is unnecessary as the purpose of the Commission's disclosure statement regulations is to regulate the relevant terms and conditions to be communicated to customers in plain language, and possibly could cause issues over which document constitutes the legal, enforceable contract between the customer and the EGS. Furthermore, including a term or condition in the summary may result in a customer's failure to read or acknowledge other terms included in the disclosure statement. For example, based on the Company's cursory review, the proposed summary notably is missing a description of the customer's 3-day right of rescission, which is a requirement under Pennsylvania's *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-7, and the Commission's regulations at 52 Pa. Code § 54.5(d). Failure to include this provision in the summary may result in a customer overlooking this important right.

Nevertheless, if the Commission believes this contract summary is necessary for the public interest, then such summary should be included as a part of and embedded in the body of the regulations themselves, particularly as part of Section 54.5(i). Doing so will enhance regulatory transparency, certainty and compliance. Moreover, the requirements of the contract summary should reflect the requirements of Section 54.5 relating to disclosure statements. For example, the proposed contract summary includes a section titled "statement regarding savings." Meanwhile, the provisions of Section 54.5 themselves do not require the EGS to include a clear and conspicuous statement of savings or, if none are offered, to clearly state that the customer may not experience savings by signing up with EGS. Finally, the Commission should provide meaningful opportunity for interested stakeholders to comment on the content of what should be included in such a summary prior to including them as part of any final rulemaking on this subject.

C. Proposal to Add a New Section to Chapter 54 to Codify, with Some Modifications, Existing Contract Renewal/Change in Terms Notice Requirements

UGIES generally supports the Commission's proposal to add a new section to Chapter 54 to codify existing requirements for advance customer notices governing contract renewals and/or proposed change in terms, as it is consistent with existing Commission requirements under the Commission's Final Order regarding *Interim Guidelines Regarding Advance Notification by an Electric Generation Supplier of Impending Changes Affecting Customer Service* entered on March 9, 2001 at Docket No. M-00001437 ("2001 Interim Guidelines") and the Commission's

Order amending the 2001 Interim Guidelines, entered September 23, 2010 at Docket No. M-2010-2195286 ("2010 Interim Guidelines Amendment").

i. <u>Proposed Technical Modifications</u>

UGIES offers below a couple technical modifications to Section 54.10. First, the Commission should clarify that Section 54.10 applies only to residential and small business customers. Similar to the heading for Section 54.5 relating to disclosure statements, the heading for Section 54.10 should be amended to indicate that this section applies only to residential and small business customers. Accordingly we proposed to amend the section heading as follows:

> "NOTICE OF CONTRACT RENEWAL OR CHANGE IN TERMS <u>FOR RESIDENTIAL AND SMALL BUSINESS CUSTOMERS</u>."

Next, the language in Section 54.10(A)(3)(ii), as proposed, provides as follows:

> "THESE REQUIREMENTS SHALL REMAIN IN PLACE UNTIL THE CUSTOMER AFFIRMATIVELY ENTERS INTO A NEW CONTRACT WITH ONE OF THE FOLLOWING: (A) THE CUSTOMER'S EXISTING EGS. (B) ANOTHER EGS. (C) THE DEFAULT SERVICE PROVIDER."

The provision "enters into a new contract" should be revised since the customer technically does not enter into a contract with the EDC when it returns to default service and it is inappropriate and impracticable for the existing EGS to confirm whether the customer entered into a new contract with another EGS. Accordingly, the Company proposes the following modifications to this section:

> "THESE REQUIREMENTS SHALL REMAIN IN PLACE UNTIL THE CUSTOMER AFFIRMATIVELY ~~ENTERS INTO A NEW CONTRACT WITH~~ <u>SELECTS</u> ONE OF THE FOLLOWING: (A) <u>TO REMAIN WITH</u> THE CUSTOMER'S EXISTING EGS~~.~~<u>,</u> (B) <u>TO ENROLL WITH</u> ANOTHER EGS~~.~~<u>, OR</u> (C) <u>TO RETURN TO</u> THE DEFAULT SERVICE PROVIDER."

Moreover, the Commission's proposed rulemaking is notably silent about what constitutes a customer's affirmative selection of one of the options noted. UGIES recommends that the Commission add to this provision language similar to what is contained in the NGS disclosure statement regulations at 52 Pa. Code 62.75. In particular, Section 62.75(g)(2) provides the following specific examples of what constitutes a customer's affirmative reselection of the supplier:

> "...when the customer initiates a telephone call to the NGS and during the conversation the customer accepts the new offer, the NGS initiates a telephone call to the customer and during the conversation the customer accepts the new offer, the customer accepts the new offer by signing a document and returning it to the NGS, or the customer acknowledges the acceptance of the new offer electronically, perhaps by checking a box on a form on the NGS's website. These are offered as examples and are not meant to be all inclusive."

52 Pa. Code 62.75(g).

Similar additions should be added in this section to provide clarity over what it means to affirmative select one of the options.

ii. Timing Requirements for Advance Notices

The Commission's proposed regulations include changes to the existing timing requirements for sending the notices. In particular, under the proposed rulemaking the Initial Notice must be sent 45 to 60 days prior to the expiration date or the effective date of the proposed change in terms, compared to 52 to 90 days under the existing requirements, and the Options Notice must be sent at least 30 days prior to the expiration date or the effective date of the proposed change in terms, compared to 45 days under the existing regulations. UGIES supports these changes as it believes it will result in more timely and meaningful communications to the customer regarding their electric supply contract.

iii. Reference to the EDC's Price to Compare in the Options Notice

The proposed regulations notably do not require the EGSs' Options Notice to include the EDC's price to compare in the notice. Under existing requirements, EGSs must provide the EDC's price to compare and inform the customer of the frequency of the change and that the current price to compare can be obtained by contacting the EDC or accessing www.papowerswitch.com or the OCA's "Electric Shopping Guide" at www.oca.state.pa.us. If the EDC's price to compare for the proposed contract term is not yet established, the EGS must provide an estimated price to compare clearly labeled as an "estimate." The notice shall provide the approximate date that the actual price to compare will be established and a statement that the customer can contact the EDC or access www.papowerswitch.com or use the OCA's "Electric Shopping Guide" at www.oca.state.pa.us to obtain this information when it is available.

We believe the existing requirements place an onerous burden on EGSs by requiring the inclusion of the actual or estimated price to compare, especially when the EDC is the source of this information. However, in the interest of enhancing customer information, rather than completely eliminate any mention of the EDC's price to compare, UGIES proposes that Section 54.10 require that the Options Notice inform the customer of the existence of the EDC's price to compare by including a statement that the EDC's current actual or estimated price to compare can be obtained by contacting the EDC or accessing www.papowerswitch.com or the OCA's "Electric Shopping Guide" at www.oca.state.pa.us.

iv. Clarification Needed under Section 54.10(A)(2)(ii)(A) re: Options Notice

Section 54.10(A)(2)(II)(A) under the proposed rulemaking provides that "if a customer does not respond to the notices and is converted to a month-to-month contract any subsequent changes in pricing shall be provided to the customer at least 30 days prior to that new price being charged." UGIES recommends the elimination of this provision and, in the alternative, seeks clarification from the Commission on the intent of this provision. Is the Commission requiring EGSs to notify the customer of the monthly rate for the next billing cycle? If so, this is an unworkable solution given how EGSs currently price (*see* discussion above re: calculating customer's price at the end of the applicable billing cycle) and it inappropriately places EGSs in the position of having to provide price projections to customers. This will not lead to meaningful communications to consumers about the market.

III. CONCLUSION

UGIES commends the Commission in its efforts to respond to the recent electricity market events and appreciates the opportunity to provide comments on this important rulemaking. UGIES believes that appropriate policy and procedural changes are needed at both the federal and state levels to address the wholesale market price increases that occurred during January and February this past winter, including, among other things, additional consumer protection rules to enhance price transparency and improve customer education about the inherent risks of variable-priced supply products, and we support the Commission's efforts in this regard, including the Commission's robust enforcement of such customer protection rules.

Respectfully submitted,

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