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August 2, 2017

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

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

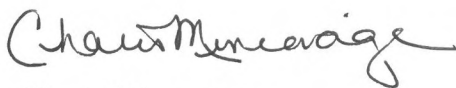
Dear Secretary Chiavetta:

Please find attached for filing with the Pennsylvania Public Utility Commission the Comments of the Industrial Energy Consumers of Pennsylvania ("IECPA") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being duly served with a copy of this document.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Charis Mincavage

Counsel to the Industrial Energy Consumers of Pennsylvania

c: Administrative Law Judge Elizabeth H. Barnes (via E-mail and First Class Mail)
Certificate of Service

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).

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Certificate of Service

Docket Nos. P-2011-2277868 and I-2012-2320323

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Dated this 2nd day of August, 2017, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies : : **Docket No. P-2011-227786**

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

COMMENTS OF THE INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA

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Dated: August 2, 2017

I. INTRODUCTION

On December 8, 2011, the Bureau of Investigation and Enforcement ("I&E"), Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), Peoples TWP LLC ("Peoples TWP"), and Peoples Natural Gas Company LLC ("Peoples") (collectively, "Joint Parties") filed a Petition at the Pennsylvania Public Utility Commission ("PUC" or "Commission"), requesting that the Commission institute an investigation or rulemaking into gas-on-gas competition. Specifically, the Joint Parties requested that the Commission evaluate the practice of rate flexing by natural gas distribution companies ("NGDCs") with overlapping service territories.¹

Via Secretarial Letter, the Commission directed the initiation of a generic proceeding to address "the issues related to an NGDC's flexing of distribution rates to meet the lower rates from other NGDCs and the treatment of flexed revenues for ratemaking purposes in future ratemaking proceedings." *See* July 25, 2012 Secretarial Letter, p. 1. After a formal proceeding, in which the Industrial Energy Consumers of Pennsylvania ("IECPA") participated, Administrative Law Judge ("ALJ") Elizabeth H. Barnes issued her Recommended Decision ("RD") on June 24, 2014. Exceptions and Reply Exceptions were filed by various parties, with the Commission entering an Opinion and Order on May 4, 2017 (hereinafter, "May 4 Order").

Pursuant to the May 4 Order, the Commission determined that gas-on-gas discounts should continue to be offered for Commercial and Industrial ("C&I") customers that have the capability to receive service from more than one NGDC. May 4 Order, p. 51. This continuation, however, is contingent upon the development of: (1) a floor based on the lowest applicable tariff rate available to a gas-on-gas customer; and (2) the establishment of uniform gas-on-gas flex rate

¹ On December 28, 2011, the Industrial Energy Consumers of Pennsylvania ("IECPA") filed an Answer not opposing an investigation or rulemaking regarding gas-on-gas competition, asserting that current public utility law and policy supports the continued use of rate flexing.

tariff provisions among the NGDCs with overlapping service areas. *Id.* According to the PUC, current provisions in the individual NGDC tariffs that enable gas-on-gas discounts are very brief and not uniform. *Id.* at 55. Because the record in this proceeding did not address specific tariff provisions, the Commission is soliciting Comments and Reply Comments from affected NGDCs and interested parties concerning the uniform tariff provisions that should be utilized prospectively by the NGDCs with regard to their offering of gas-on-gas flex rates.² *Id.* at 55-56.

For purposes of this proceeding, IECPA is an association of energy-intensive industrial companies operating facilities across the Commonwealth of Pennsylvania, including companies served by NGDCs that offer flexed rates based on overlapping service territories with other NGDCs. IECPA was a party to this proceeding, offering testimony and providing briefing on this topic. Because of the impact that any changes to gas-on-gas competition will have on IECPA members in overlapping NGDC service territories, IECPA submits these comments.

II. COMMENTS

At this time, the movement of gas-on-gas customers to uniform tariff provisions remains conceptual in nature. Because of the four separate NGDCs involved, attempting to propose standardized tariff provisions through comments may prove difficult. As a result, providing comprehensive remarks on this topic proves challenging for a non-NGDC party such as IECPA. While the comments from the applicable NGDCs may enable IECPA to offer more detailed observations in the Reply Comments portion of this proceeding, IECPA would recommend the PUC, upon receipt and review of Comments and Reply Comments, implement one or more working groups to allow all interested parties the opportunity to review and discuss the

² In addition to any recommendations offered by parties, the Commission also requests the parties address specific issues, including: (1) customer classes to be offered gas-on-gas flex rates; (2) uniform minimum consumption thresholds; (3) offering of rates to new customers; (4) criteria and associated documentation for customers to demonstrate capability of dual service; and (5) potential limit on the duration of contracts.

commonalities among the NGDCs' tariff provisions. The use of working groups would allow for a specialized focus on various matters, as well as a more thorough determination of what issues could be standardized among the NGDCs. Moreover, the working groups could provide the parties with an opportunity to identify "best practices" that could then serve as a baseline for any common tariff provisions to be applied going forward.

Even without the ability to provide detailed comments at this time, IECPA submits that any uniform gas rates must minimize the impact to all customers, both flex rate and non-flex rate. For example, some NGDCs provide service to flex and non-flex rate customers on the same rate schedule. If uniform tariff provisions were implemented for flex rate customers, these provisions should not automatically apply to non-flex rate customers, especially if these provisions would be detrimental to those customers without an overlapping NGDC option.

To that end, the Commission should consider requiring NGDCs to provide a separate rate schedule, including distinct terms and conditions, for flex rate customers. Ensuring an individual rate schedule, with separate terms and conditions of service, will most likely limit the impact on non-flex rate customers, while also expediting the standardization of any tariff provisions. To that same end, the Commission should also require the applicable NGDCs to separate flex rate customers for purposes of any Cost of Service Study ("COSS"). If flex rate customers are grouped with non-flex rate customers for COSSs, a determination of whether both flex and non-flex rates are cost-based will prove extremely difficult. Moreover, without such a separation, determination of the cost to serve flex and non-flex customers would be impossible.

Even if the Commission does not compel the applicable NGDCs to separate flex and non-flex customers for COSS purposes, the Commission should consider requiring any future rate increase to any non-flex tariff rates be limited to the system average increase in order to ensure

that non-flex customers are not required to solely bear the burden of supporting gas-on-gas customers. In addition, if the tariff rates are to serve as a floor for flex rates under the PUC's modified rules, those rates must reflect only the system average return for the non-flex customers.

Finally, with respect to the Commission's specific questions, IECPA would offer the following. First, the customer classes to be allowed to participate in flex rate discounts should be as broad as possible. Gas-on-gas competition benefits customers, the NGDC, and the service territory. If a customer has the ability to switch between NGDCs with overlapping service territories, the customer should be permitted to do so.

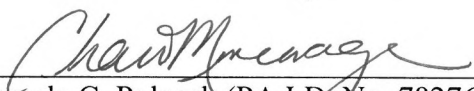
Second, such ability should not be restricted to only current customers. If a new customer begins operations in an overlapping service territory, the customer should be able to choose its applicable NGDC. In today's world, customers are presented with options and choices in every aspect of their lives. To limit a customer's provider if more than one NGDC is willing to serve and is certified to do so would be inappropriate and unjust. Moreover, telling a C&I customer that it must go with a specific NGDC when a competitor may have a distribution pipeline right next to the new customer's building may be difficult for the C&I customer to understand and accept. Further, eliminating a new customer's choice of NGDC triggers the question of what entity would be the decision maker (*e.g.*, the customer, the NGDC, or the PUC). In light of the significant concerns that arise, allowing a new customer the option to choose a competitive NGDC, assuming this customer is otherwise eligible for gas-on-gas competition, seems to be the most just and reasonable option.

III. CONCLUSION

WHEREFORE, the Industrial Energy Consumers of Pennsylvania respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing comments.

Respectfully submitted,

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