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January 12, 2021

VIA ELECTRONIC FILING

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

Re: EnergyMark LLC, Vineyard Oil and Gas Company, Mid American Natural Resources LLC, and Total Energy Resources LLC v. National Fuel Gas Distribution, Docket No. C-2020-3019621; **PREHEARING CONFERENCE MEMORANDUM OF ENERGYMARK LLC, VINEYARD OIL AND GAS COMPANY, MID AMERICAN NATURAL RESOURCES LLC, AND TOTAL ENERGY RESOURCES LLC**

Dear Secretary Chiavetta:

Enclosed for electronic filing with the Commission is the Prehearing Conference Memorandum of EnergyMark LLC, Vineyard Oil and Gas Company, Mid American Natural Resources LLC, and Total Energy Resources LLC (the "Joint Complainants") in the above-captioned matter. Copies of this Memorandum have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions related to this filing, please do not hesitate to contact me.

Very truly yours,

Todd S. Stewart
Bryce R. Beard
Counsel for the Joint Complainants

TSS/jld

Enclosures

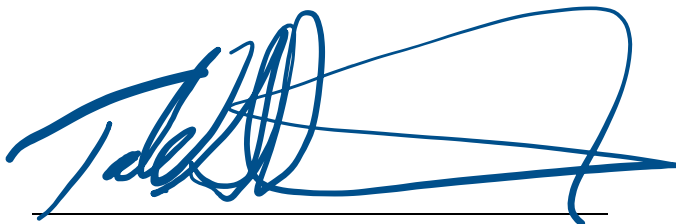
cc: Administrative Law Judge Dennis J. Buckley (via electronic mail)
Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party)

VIA ELECTRONIC MAIL

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A handwritten signature in blue ink, appearing to be 'Todd S. Stewart', written over a horizontal line.

Todd S. Stewart
Bryce R. Beard

DATED: January 12, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

EnergyMark LLC, Vineyard Oil and Gas	:	
Company, Mid American Natural Resources	:	
LLC, and Total Energy Resources LLC	:	
Complainants	:	Docket No. C-2020-3019621
v.	:	
	:	
National Fuel Gas Distribution Corporation	:	
Respondent	:	

**PREHEARING CONFERENCE MEMORANDUM
OF ENERGYMARK LLC, VINEYARD OIL AND GAS COMPANY,
MID AMERICAN NATURAL RESOURCES LLC,
AND TOTAL ENERGY RESOURCES LLC**

TO THE HONORABLE DENNIS J. BUCKLEY

By Notice dated November 23, 2020, a Prehearing Conference was scheduled in the above-captioned matter to be held telephonically on January 19, 2021, before the Honorable Dennis J. Buckley. In preparation for that Conference, and pursuant to 52 Pa. Code § 5.222, Joint Complainants, EnergyMark LLC, Vineyard Oil & Gas Company, Mid American Natural Resources LLC and Total Energy Resources LLC (the “Joint Complainants”), present this Prehearing Conference Memorandum.

I. PROCEDURAL HISTORY

1. On April 27, 2020, the Joint Complainants filed the above-captioned Complaint with the Pennsylvania Public Utility Commission (“Commission”). The Complaint was served on Respondent, National Fuel Gas Distribution Company (“NFGD”). The Complaint alleges, among other things, that NFGD has implemented a tariff that contains unreasonable provisions regarding

data security; that the facts surrounding NFGD's implementation of the tariff have changed so as to render the data security requirements unreasonable; that the Tariff grants NFGD illegal authority to supervise natural gas suppliers in abrogation of the Commission's exclusive right to do so; and that NFGD had misrepresented the basis of its data security tariff to the Joint Complainants and to the Commission, thus rendering the tariff void *ab initio*.

2. On May 20, 2020, NFGD submitted its Answer and New Matter to the Complaint in which it denied the material allegations of the Complaint.

3. On June 9, 2020, the Joint Complainants submitted their Answer to NFGD's New Matter.

4. The Parties have engaged in discovery, and on October 22, 2020, filed a Joint Motion for a Protective Order that has not yet been ruled upon.

5. On November 23, 2020, the Commission issued the above-referenced Notice of Prehearing Conference.

II. ISSUES

6. The Joint Complainants intend to address the issues raised in their Complaint, and any related sub-issues through the written testimony of two witnesses. These issues include: the reasonableness of NFGD's tariff requirement that NGDSs serving customers on its system maintain a \$5 million cyber insurance policy; the deceptive and misleading manner in which NFGD implemented its data-security tariff; and the change in circumstances from the time of filing through approval and implementation that render the tariff void.

III. WITNESSES

7. The Joint Complainants intend to present the testimony of two witnesses:

a. Mr. Frank Lacey. Mr. Lacey will testify regarding the reasonableness of the insurance requirements in the data-security tariff and other related issues. Mr. Lacey is the Principal of Electric Advisors Consulting, 3 Traylor Drive, West Chester, PA 19382.

b. Mr. Tim Wright is a Vice President at Energy Mark and has participated in NFGD data security proceedings in New York and the instant matter in Pennsylvania. EnergyMark LLC, 6653 Main Street, Williamsville, NY 14221. Mr. Wright will testify regarding the impact that NFGD's tariff has on marketers and present evidence of NFGD's efforts to deceive suppliers in the approval process for its tariff.

IV. PROPOSED PROCEDURAL SCHEDULE

8. The Joint Complainants propose that testimony in this proceeding be provided in written form and that a hearing be used for cross-examination. To that end, the Joint Complainants propose that there be three rounds of written testimony. Direct (Joint Complainants), Rebuttal (NFGD) and Surrebuttal (Joint Complainants) with an opportunity for NFGD to offer rejoinder – so long as it provides an outline of the rejoinder testimony at least 3 business days prior to the hearing and that the Joint Complainants retain their right to respond to any rejoinder at the hearing.

9. The Joint Complainants propose the following procedural schedule for this proceeding:

Direct Testimony	March 5
Rebuttal Testimony	March 25
Surrebuttal Testimony	April 16
Written Rejoinder Outline	April 26
Hearing (one day)	April 29
Main Briefs	June 2
Reply Briefs	June 23

V. DISCOVERY AND PROTECTIVE ORDER

10. The Joint Complainants and NFGD have engaged in discovery to date. To the extent that there are subsequent rounds of discovery, particularly following rounds of testimony, the Joint Complainants suggest the following discovery modifications be adopted:

A. Answers to interrogatories shall be served in-hand within ten (10) calendar days unless otherwise agreed to by the parties.

B. Objections to interrogatories to be communicated orally within three (3) calendar days of service; unresolved objections shall be served on the propounding party in writing within five (5) calendar days of service of interrogatories.

C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

E. Rulings over such motions shall be issued, if possible within seven (7) calendar days of the filing of the motion.

F. Responses to requests for document production, entry for inspection, or other purposes to be served in-hand within ten (10) calendar days.

G. Requests for admission to be deemed admitted unless answered within seven (7) calendar days or objected to within five (5) calendar days of service.

H. Discovery served after 12:00 p.m. on a Friday or the day before a Commission holiday shall be deemed served on the next business day.

11. The Parties filed a Joint Motion for Protective Order and that motion has not yet been addressed.

VI. SETTLEMENT

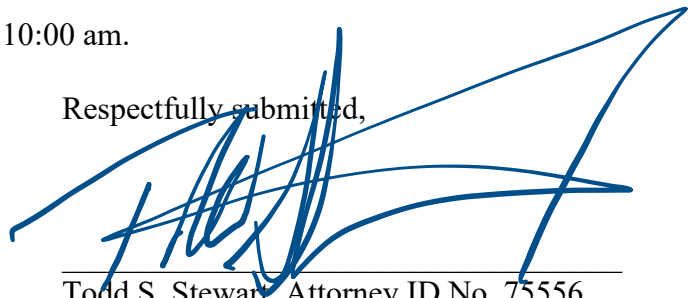
12. The Joint Complainants and NFGD have had preliminary settlement discussions that did not prove to be successful. Nonetheless, the Joint Complainants are willing to engage in settlement discussions at any reasonable time to seek to resolve this matter.

VII. SERVICE OF DOCUMENTS

13. Joint Complainants propose that all due dates for any documents in this proceeding are in-hand the day they are due. Service of documents by email only by 4:30 pm on the due date will be considered in-hand delivery on that date under the Commissions COVID-19 modified procedures at M-2020-3019262. Any pleading or discovery request served after noon on a Friday or day before a holiday shall be considered served the next business day.

WHEREFORE, the Joint Complainants respectfully submit this Prehearing Conference Memorandum in anticipation of the Prehearing Conference currently scheduled to be held telephonically on Tuesday, January 19, 2021 at 10:00 am.

Respectfully submitted,



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Counsel for the Joint Complainants

DATED: January 12, 2021