

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held May 12, 2022

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
John F. Coleman, Jr., Vice Chairman
Ralph V. Yanora

Revocation of Natural Gas Supplier Licenses of
Companies that did not file a Natural Gas Supplier
Annual Report or pay past due Annual or
Supplemental Fees

M-2022-3030293

TENTATIVE ORDER

BY THE COMMISSION:

The Public Utility Code authorizes the Pennsylvania Public Utility Commission (Commission) to establish, by order or rule, on a reasonable cost basis, fees to be charged for annual activities related to the oversight of natural gas suppliers (NGS). 66 Pa. C.S. § 2208(h). NGSs are required to pay these fees. In addition, NGSs are required to file annual reports with the Commission by April 30 of each year identifying their gross Pennsylvania intrastate operating revenues from the prior calendar year. 52 Pa. Code § 62.110(a)(1).

Both the Code, 66 Pa. C.S. § 2208(c)(2), and Commission regulations, 52 Pa. Code § 62.113(a)(5), state that the failure of an NGS to comply with applicable provisions of the Code or the rules, regulations, orders, or directives of the Commission shall be cause for the Commission to revoke the license of the NGS. Through this Order, the Commission tentatively finds that the NGSs identified in Table 1 (failure to pay fees)

and Table 2 (failure to report revenue) are not in compliance with their obligations under the Code and Commission regulations and initiates this proceeding to revoke their NGS licenses.

Annual and Supplemental Fees

Act 155 of 2014 authorized the Commission to establish annual fees to fund the Commission's oversight of NGSs. 66 Pa. C.S. § 2208(h). These fees were established by order of the Commission¹ as (1) a flat annual fee of \$350 to be paid by all licensed suppliers and brokers regardless of reported gross intrastate operating revenues and (2) a supplemental fee—to be paid only by suppliers—based on each NGS's gross intrastate operating revenues.

NGSs are required to pay the \$350 flat annual fee to the Commission's Bureau of Administration by July 1 of each year. Suppliers with reported gross intrastate operating revenues are also required to pay the supplemental fee to the Commission within thirty days of receiving the Commission issued supplemental fee invoice.

Although an NGS is not a "public utility," see 66 Pa. C.S. §§ 102, 2202 and 52 Pa. Code § 62.141 (relating to the definitions of "public utility" and "natural gas supplier"), it is a licensed entity subject to the power and authority of the Commission, and it must comply with applicable provisions of the Code, Commission regulations, and Commission orders. 66 Pa. C.S. §§ 501 and 2208(e). The Commission has the authority, consistent with due process, to suspend or revoke an NGS's license for the NGS's failure to comply with applicable provisions of the Code, Commission regulations, and Commission orders. 66 Pa. C.S. § 2208(c)(2) and 52 Pa. Code. § 62.113(a)(5). An NGS that fails to pay either or both of its annual or supplemental fee violates both the Code,

¹ *Final Implementation Order on Implementation of Act 155 of 2014*, at pgs. 3-8, Docket No. M-2014-2448825 (Order entered April 24, 2015) (*Final Implementation Order*).

66 Pa. C.S. § 2208(h), and the Commission’s directives contained in the *Final Implementation Order*. Therefore, such an NGS is subject to fines and having its license revoked by the Commission.

On April 28, 2021, the Commission sent all NGS brokers and suppliers an Annual Fee Invoice with payment due by July 1, 2021. On July 21, 2021, a past due balance letter was sent to delinquent NGS brokers and suppliers requesting that the past due annual fee be paid within 20 days of the date of the letter.

On September 10, 2021, the Commission sent NGS suppliers a Supplemental Fee invoice and an explanation of the Supplemental Fee with payment due within 30 days of receipt of the invoice. On October 27, 2021, the Commission sent past due balance letters to delinquent NGS suppliers stating that the past due supplemental fee must be paid within 20 days of the date of the letter.

As of May 3, 2022, the NGS brokers and suppliers listed in Table 1 below have not paid either or both of their annual or supplemental fees through 2021.

Table 1– Failure to Pay Annual and/or Supplemental Fees

<u>Docket Number</u>	<u>Company Name</u>	<u>Annual or Supplemental</u>
A-2017-2590010	BENCHMARK SERVICES INC	Annual
A-2018-3004017*	CIMA ENERGY SOLUTIONS LLC	Supplemental
A-2010-2159802*	CONOCOPHILLIPS COMPANY	Supplemental
A-2013-2397052	DELTA ENERGY SERVICES OHIO LLC	Annual
A-2016-2522628	DIVERSEGY LLC	Annual ²
A-2017-2638656	ELECTRICITY RATINGS LLC	Annual

² Annual Fee is from calendar year 2016

A-2013-2384046	ENGIE POWER & GAS LLC	Annual
A-2021-3024027	GOTHAM ENERGY 360 LLC	Annual
A-2014-2451662	H P TECHNOLOGIES INC	Annual
A-2014-2414016	INCITE ENERGY LLC	Annual
A-2018-3006224	MY ENERGY OPTION LLC	Annual
A-2015-2501184	PHILIP HARVEY	Annual ³
A-125068	RILEY NATURAL GAS COMPANY	Annual
A-2020-3019883	SELECTED POWER INC	Annual
A-125137	SEQUENT ENERGY MANAGEMENT, L.P.	Annual
A-125043	SEQUENT ENERGY SERVICES INC	Annual
A-2018-3003351*	STATEWISE ENERGY PENNSYLVANIA LLC	Annual
A-2021-3023625	SUNWAVE USA HOLDINGS INC	Annual
A-2018-3000580	TOTAL MARKETING CONCEPTS INC	Annual
A-2017-2622058*	WORLD FUEL SERVICES INC	Annual ⁴

*Taking title to natural gas.

Annual Report

All NGS suppliers must also file an Annual Report with the Commission by April 30 each year. 52 Pa. Code § 62.110(a). The Annual Report must include, among other things, the NGS's total gross receipts from the sale of natural gas supply services in the preceding calendar year. 52 Pa. Code § 62.110(a)(1). This information is used by the

³ Annual fee is from calendar year 2016

⁴ Annual fees are from calendar years 2020 and 2021

Commission to calculate the supplemental fee in accordance with the terms of the *Final Implementation Order*.

As previously noted, the Commission has the authority, consistent with due process, to suspend or revoke an NGS's license for the NGS's failure to comply with applicable provisions of the Code, Commission regulations, and Commission orders. 66 Pa. C.S. § 2208(c)(2) and 52 Pa. Code. § 62.113(a)(5). An NGS that fails to file an annual report violates the Commission's regulations at 52 Pa. Code § 62.110(a). Therefore, such an NGS is subject to fines and having its license revoked by the Commission.

The Commission sent an NGS Requirements Letter to all NGS suppliers in February 2021 advising them of their annual filing requirements and the due dates. In October 2021, the Commission sent a Failure to Submit Annual Report Notice (Notice) to NGS suppliers that failed to file a 2021 Annual Report with the Commission. The Notice stated that the past due Annual Report must be filed within 30 days of the Notice.

As of May 3, 2022, the NGS suppliers listed in Table 2 below have not filed a 2021 Annual Report, reporting their 2020 gross receipts, with the Commission.

Table 2 – Failure to File a Natural Gas Supplier Annual Report

<u>Docket Number</u>	<u>Company Name</u>
A-125071*	COENERGY TRADING COMPANY
A-2019-3008742*	ECO ENERGY NATURAL GAS LLC
A-2016-2527549*	NATIONAL GAS & ELECTRIC
A-2018-3001651*	PHOENIX FUEL MANAGEMENT COMPANY

*Taking title to natural gas.

Disposition

Based on the above facts, we tentatively find that the NGSs listed in Table 1 are not in compliance with the Public Utility Code, 66 Pa. C.S. § 2208(c)(2), (h) and the *Final Implementation Order*, and the NGSs listed in Table 2 are not in compliance with the Public Utility Code, 66 Pa. C.S. § 2208(c)(2), and the Commission's regulations at 52 Pa. Code § 62.110(a). Therefore, it is appropriate to initiate the NGS license revocation process for each company listed in Table 1 and Table 2 as being in the public interest; **THEREFORE,**

IT IS ORDERED:

1. That revocation of the Natural Gas Supplier License of each company listed in Table 1 and Table 2 is hereby tentatively approved as being in the public interest.
2. That the Secretary (i) serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Bureau of Investigation & Enforcement, all natural gas distribution companies, and all of the Natural Gas Suppliers listed in Table 1 and Table 2; (ii) publish a copy of this Tentative Order in the *Pennsylvania Bulletin* with a 30-day comment period; and (iii) file a copy of this Tentative Order at each Natural Gas Supplier's assigned docket number.
3. That, to the extent any of the Natural Gas Suppliers listed in Table 1 and Table 2 challenge the revocation of their license, they must file comments within thirty (30) days after publication of this Tentative Order in the *Pennsylvania Bulletin*. Written comments referencing Docket No. M-2022-3030293 should be eFiled to the Pennsylvania Public Utility Commission through the Commission's eFiling System. You may set up a free eFiling account with the Commission at <https://efiling.puc.pa.gov/> if

you do not have one. Comments containing confidential information should be sent to the Commission via overnight service rather than eFiled.

4. That, alternatively, Natural Gas Suppliers listed in Table 1 may pay their outstanding fee balance up to and within thirty (30) days after publication in the *Pennsylvania Bulletin*. Payment shall be sent to the Pennsylvania Public Utility Commission, Attn: Fiscal Office, Commonwealth Keystone Building, 400 North Street, 3rd Floor, Harrisburg, PA 17120. Checks shall be made payable to “Commonwealth of Pennsylvania.”

5. That, alternatively, Natural Gas Suppliers listed in Table 2 may file their outstanding 2021 annual revenue report within thirty (30) days after publication in the *Pennsylvania Bulletin*. Any completed 2021 annual revenue reports shall be sent to the Pennsylvania Public Utility Commission, Attn: Secretary’s Bureau, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120.

6. That, absent the timely (i) filing of comments challenging the revocation of the Natural Gas Supplier’s license; (ii) payment of the Natural Gas Supplier’s outstanding fee balance; or (iii) filing of the Natural Gas Supplier’s 2021 annual revenue report within 30-days after publication in the *Pennsylvania Bulletin*, the Bureau of Technical Utility Services, in conjunction with the Bureau of Administration, shall prepare a Final Order for entry by the Secretary revoking the license of each Natural Gas Supplier that fails to respond.

7. That upon entry of the Final Order, Natural Gas Suppliers that fail to respond will be prohibited from providing natural gas supply services to retail gas customers. Any customers served by the Natural Gas Supplier will be returned to the appropriate Natural Gas Distribution Company’s provider of last resort service as set forth in the Final Order.

8. That upon entry of the Final Order, Natural Gas Suppliers that fail to respond will be stricken from all active utility lists maintained by the Commission's Bureau of Technical Utility Services and the Assessment Section of the Bureau of Administration, removed from the Commission's website, and notifications will be sent to all natural gas distribution companies in which the Natural Gas Suppliers were licensed to do business.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with the first name being more prominent.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: May 12, 2022

ORDER ENTERED: May 12, 2022