



3333 K Street, NW, Suite 110
Washington, D.C. 20007
Tel: 202-333-3288
Fax: 202-333-3266

March 5, 2018

Ms. Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission
of the District of Columbia
1325 G Street, NW
Eighth Floor
Washington, DC 20005
Via E-Docket and Overnight Mail

**RE: Formal Case No. 1130, RM46-2015-01-E, RM47-2017-01-G and GT96-3 -
Comments of the National Energy Marketers Association**

Dear Secretary Westbrook-Sedgwick:

The National Energy Marketers Association (NEM) submits for filing the "Comments of the National Energy Marketers Association" in the above-referenced proceedings.

Thank you for your assistance.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Craig Goodman", with a long horizontal flourish extending to the right.

Craig G. Goodman
President, NEM

Cc: Service List

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

In the Matter of)
The Investigation into)
Modernizing the Energy Delivery System) **Formal Case No. 1130**
For Increased Sustainability)

In the Matter of)
The Investigation into the)
Public Service Commission’s Rules) **RM 46-2015-01-E**
Governing the Licensure and Bonding)
Of Electric Suppliers in the)
District of Columbia)

In the Matter of)
The Investigation into the)
Public Service Commission’s Rules) **RM 47-2017-01-G**
Governing the Licensing and Bonding)
Of Natural Gas Suppliers and Natural)
Gas Consumer Protection Standards in)
The District of Columbia)

In the Matter of)
The Application of Washington Gas)
Light Company, District of Columbia) **GT 96-3**
Division, For the Authority to Establish)
A New Rate Schedule No. 1A)

**COMMENTS OF THE
NATIONAL ENERGY MARKETERS ASSOCIATION**

The National Energy Marketers Association (NEM)¹ hereby submits comments pursuant to the Commission’s Notice of Fifth Proposed Rulemaking [hereinafter “fifth NOPR”] published in the February 2, 2018, D.C. Register, on the adoption of a new Chapter 46 of Title 15 of the District

¹ The National Energy Marketers Association (NEM) is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM’s membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

Code of Municipal Regulations which would establish rules pertaining to the licensure and bonding of electricity suppliers in the District of Columbia and also the Notice of Fourth Proposed Rulemaking [hereinafter “fourth NOPR”] published in the February 2, 2018, D.C. Register on the adoption of a new Chapter 47 of Title 15 of the District Code of Municipal Regulations which would establish rules pertaining to the licensure and bonding of natural gas suppliers in the District of Columbia. NEM has filed multiple rounds of comments as the Commission has considered, revised and reissued the proposed rules for stakeholder input.²

NEM submits these limited comments to address two issues which were also the subject of its last filed comments. NEM notes that throughout this rulemaking process the Commission has considered NEM’s recommendations about the rule proposals and incorporated a number of NEM’s suggestions. NEM appreciates the Commission’s consideration of its input in designing rules that strike an appropriate balance in exercising oversight of competitive suppliers and ensuring consumer protections without erecting overly burdensome or unnecessary requirements that do not advance those goals.

In NEM’s last filing on the supplier rules it commented on two important proposals of concern: 1) a requirement that a licensee have an on-going obligation to provide the Commission and OPC with new marketing materials whenever it changes “any of its marketing materials”; and 2) a requirement that licensees provide advance notice to the Commission and OPC of the commencement of solicitation or marketing to customers. NEM is filing these limited comments to note its support of the Commission’s removal of the proposed reporting requirement for a supplier’s changes to “any of its marketing materials” formerly included in Proposed Sections

² NEM’s Comments in FC1130 and RM46-2015-01-E dated March 9, 2015, March 20, 2017, and September 11, 2017, are incorporated by reference herein.

4608.1 and 4708.1. NEM is also reiterating its preference that supplier notification of the commencement of solicitation or marketing of customers should be provided “as soon as” the solicitation and marketing occurs, rather than the three-business day advance notice requirement as set forth in Proposed Sections 4603.11 and 4703.11.

1) Proposed Sections 4608.1 and 4708.1 – Updates to an Approved Application

The fifth NOPR at Proposed Section 4608.1 and the fourth NOPR at Proposed Section 4708.1 have now removed the prior Commission proposal that licensees have an on-going obligation to provide the Commission and OPC with new marketing materials whenever the licensee changes “any of its marketing materials.” NEM strongly supports this change. In prior comments NEM explained the burdensome nature of imposing such an on-going reporting requirement on the supplier community, given that suppliers are continuously modifying their marketing materials in the course of their business as they develop and offer innovative and improved products to consumers. NEM also noted that the requirement would likely result in a deluge of supplier filings that would be administratively infeasible to review. Additionally, in the event of a specific question, the supplier can make the materials available to the Commission upon request. NEM appreciates the Commission’s consideration of its concerns and supports the removal of the proposed reporting requirement from Proposed Sections 4608.1 and 4708.1.

2) Proposed Sections 4603.11 and 4703.11 – Solicitation of Customers

With respect to the proposal that licensees provide three business days advance notice of the commencement of solicitation or marketing of customers in Proposed Sections 4603.11 and 4703.11, NEM reiterates its previous recommendation that supplier provision of notice “as soon as” the solicitation or marketing activity commences is preferable and should be adopted. The

advance notice requirement unnecessarily interferes with suppliers ability to rapidly and flexibly respond to changing market conditions by unnecessarily delaying marketing campaigns. The advance notice requirement also does not materially improve the quality of the notice received by the Commission in comparison with notice received “as soon as” the activity commences. For these reasons, NEM respectfully requests that Proposed Sections 4603.11 and 4703.11 incorporate language permitting supplier notice “as soon as” marketing and soliciting activities commence. NEM also respectfully requests that the related language regarding grounds for Commission action in Proposed Sections 4609.2(v) and 4709.2(u) be likewise modified to incorporate an “as soon as” activities commence standard.

NEM supports the language revision to these Sections that removed the proposal to provide the notice to OPC, in addition to the Commission. As NEM argued in its prior comments, the competitive supplier licensing and bonding rules should be limited in their scope to the oversight exercised by this Commission inasmuch as this Commission and its Staff are the entities that enforce these rules.

Conclusion

NEM appreciates this opportunity to offer its comments on the Commission's fifth NOPR on proposed electric supplier licensing and bonding regulations and fourth NOPR on natural gas supplier licensing and bonding regulations.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Craig Goodman", with a long horizontal flourish extending to the right.

Craig G. Goodman, Esq.
President
National Energy Marketers Association
3333 K Street, NW, Suite 110
Washington, DC 20007
Email: cgoodman@energymarketers.com
Tel: 202-333-3288

Dated: March 5, 2018.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March 2018 that a copy of the foregoing Comments of the National Energy Marketers Association was served via email or U.S. mail on the parties on the official service list in FC No. 1130, RM46-2015-01-E, RM47-2017-01-G and GT96-3.

A handwritten signature in blue ink, appearing to read "Craig Goodman", with a long horizontal flourish extending to the right.

Craig G. Goodman, Esq.
President
National Energy Marketers Association
3333 K Street, NW, Suite 110
Washington, DC 20007
Email: cgoodman@energymarketers.com
Tel: 202-333-3288
Fax: 202-333-3266