

SUPREME COURT: COUNTY OF ALBANY
STATE OF NEW YORK

X

PUBLIC UTILITY LAW PROJECT OF NEW YORK,
INC.; SANDRA MYERS; PAUL D. TONKO; and
DAVID HEPINSTALL;

Plaintiffs,

- against -

The NEW YORK STATE PUBLIC SERVICE COMMISSION;
the NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE;
JOHN O'MARA, in his official capacity as Chairman of the New
York State Public Service Commission and Chief Executive Officer
of the New York State Department of Public Service; and
H. CARL MCCALL, in his official capacity as Comptroller
of the State of New York;

Defendants.

AFFIDAVIT
RJI No. 01-96-ST
Index No. 4509-96
Justice Keegan

X

STATE OF NEW YORK)
COUNTY OF ALBANY) SS.

TRUDI J. RENWICK, PH.D., being duly sworn, deposes and says as follows:

1. I am an economist employed by the Public Utility Law Project ("PULP").
2. I make this affidavit in reply to statements of the Public Service Commission ("PSC"), Department of Public Service ("DPS") and John O'Mara in their Reply Memorandum of Law dated October 23, 1996 in response to plaintiffs' motion for summary judgment.

3. The PSC Reply Memorandum of Law dated October 23, 1996 states at p. 18:

Although PULP never questioned the adequacy of the Commission's Notice of Proposed Rulemaking in this case, it and the other Plaintiffs now claim that the proposed rule published by the Commission did not adequately place the public on notice of whether gas marketers would be subjected to HEFPA. Clearly, PULP's argument is contrived; it had actual as well as constructive notice.

PULP participated in meetings at which the issue was discussed and during which it was agreed that the parties would submit written comments

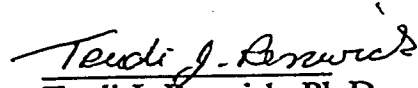
on the issue. PULP, in fact, submitted such comments. It was a full participant in the process and cannot reasonably complain that it lacked notice of a process in which it was a major player.

4. I represented PULP at six meetings in which the gas restructuring compliance filings were discussed. The meetings took place on January 10, 11, 12, 18 and 19 at the PSC offices in Albany and New York City. At the first meeting which was held on January 10, 1996, I raised the issue of residential consumer protections. I was told by John P. Zekoll, Deputy Director Cost Performance, Energy & Water Division, that Staff agreed that consumer protection issues related to residential small customer aggregation were more complex and required more analysis and that therefore residential aggregation programs would not go forward at that time. At each of these meetings Mr. Zekoll announced that the Consumer Services Division would be issuing a Staff report on consumer protections for *nonresidential* customers participating in aggregation programs, that parties would have an opportunity to comment on that report, and that therefore the consumer protection issues should not be discussed at these meetings. PULP's comments on the compliance filings, submitted January 22, 1996, make explicit reference at pp. 8-9 to Staff's stated position and are included as Exhibit A to this affidavit.


5. On February 1, 1996 I received, by fax, a DPS Staff discussion paper on *Consumer Protections in The Emerging Competitive Natural Gas Markets*. Much to my surprise the report contained explicit recommendations on transportation services for marketers/aggregators selling gas to *residential* customers. The letter accompanying the report noted that the discussion paper would be the "starting point for discussions with the parties at the scheduled meeting on Thursday, February 8." A copy of pages 1-6 of

the February 1, 1996 Staff Discussion Paper was attached as Exhibit "A" of the Verified Complaint filed July 26, 1996. A copy of the cover letter is attached to this affidavit as Exhibit B.

6. I also represented PULP at the meeting held on February 8, 1996 at the New York City offices of the Public Service Commission at which residential consumer protections related to gas aggregation programs were discussed for the first time. The agenda of the meeting is included as Exhibit C. The agenda called for a 30 minute discussion of residential consumer protections. At that meeting DPS staff announced that comments on the discussion paper could be submitted in hand or by fax no later than February 14, 1996. PULP's comments were included as Exhibit E of the Affidavit of Gerald A. Norlander in Support of Plaintiffs' Cross-Motion for Summary Judgement and In Opposition to Defendants' Motions to Dismiss and for Summary Judgement filed October 2, 1996.


Trudi J. Renwick, Ph.D.

Sworn to Before Me
This 30th Day of October, 1996



Notary Public

CHARLES BRENNAN
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN COLUMBIA COUNTY
#4895577
COMMISSION EXPIRES APRIL 27, 1997