

# PROPOSED RULEMAKING

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 62 ]

[ L-2011-2266832 ]

### Licensing Requirements for Natural Gas Suppliers

The Pennsylvania Public Utility Commission (Commission), on January 12, 2012, adopted a proposed rulemaking order which reviews the Commission's existing regulations outlining the licensing requirements for natural gas suppliers (NGS), specifically whether the exemption from NGS licensing of marketing services consultants and nontraditional marketers should be discontinued and whether all natural gas aggregators, marketers and brokers should be required to be licensed as NGSs to offer natural gas supply services to retail customers.

#### Executive Summary

By order entered January 13, 2012, the Pennsylvania Public Utility Commission (PUC) initiated a proposed rulemaking to review the exemption from licensing for "marketing services providers" and "non-traditional marketers" in its natural gas supply (NGS) licensing regulations at 52 Pa. Code § 62.102 (relating to scope of licensure). The terms "marketing services consultants" and "nontraditional marketer" are defined in 52 Pa. Code § 62.101 (relating to definitions). Rather than license these entities, the existing regulations hold a licensed NGS responsible for violations of the law, or for any fraudulent, deceptive or other unlawful marketing or billing acts committed by the marketing services consultant or nontraditional marketer that the NGS hires or with whom it partners.

The proposed rulemaking revises Section 62.102 by deleting the exemption language for marketing services consultants and non-traditional marketers at subsections (d) and (e), and deletes the definitions for these two groups at subsection 62.101. It also deletes subsection 62.110(a)(3) (relating to reporting requirements) that directs that a licensed NGS include in its annual report the names and addresses of nontraditional marketers and marketing services consultants who are acting or will be acting as agents for the licensee in the upcoming year.

The proposed rulemaking solicits comments on (1) whether the exemption from NGS licensing of marketing services consultants and non-traditional marketers should be discontinued; and (2) whether all natural gas aggregators, marketers and brokers should be required to be licensed as NGSs in order to offer natural gas supply services to retail customers. The PUC also requests comments on costs that would be incurred, and any savings that might be realized, by affected parties as the result of these proposed revisions. Affected parties would include marketing service consultants, nontraditional marketers, NGSs, NGDCs and customers.

Public Meeting held  
January 12, 2012

*Commissioners Present:* Robert F. Powelson, Chairperson; John F. Coleman, Jr., Vice Chairperson; Wayne E. Gardner; James H. Cawley, statement follows; Pamela A. Witmer, statement follows

*Licensing Requirements for Natural Gas Suppliers  
Regulations at 52 Pa. Code § 62.101—§ 62.102;  
L-2011-2266832*

### Proposed Rulemaking Order

*By the Commission:*

In conjunction with the approval of the Application of Alphabuyer LLC<sup>1</sup> ("Alphabuyer") for a natural gas supplier (NGS) license to operate as a broker/marketer engaged in the business of supplying natural gas services in various local natural gas distribution company service territories throughout the Commonwealth, the Pennsylvania Public Utility Commission (the Commission) determined that a review of the scope of its NGS licensing regulations at 52 Pa. Code § 62.101 (relating to definitions) and § 62.102 (relating to scope of licensure) should be undertaken. The focus of this review is the exemption from licensing of marketing services consultants and nontraditional marketers. Accordingly, by this order we will initiate this review.

#### Discussion

##### *Background*

On June 22, 1999, Governor Thomas J. Ridge signed into law the Natural Gas Choice and Competition Act, effective July 1, 1999, 66 Pa.C.S. §§ 2201—2212 ("Act"). Pursuant to the Act, beginning on November 1, 1999, retail customers have had the ability to choose their Natural Gas Supplier ("NGS").

Section 2208(a) of the Act requires that no entity can engage in the business of a NGS unless it holds a license issued by the Commission. 66 Pa.C.S. § 2208(a). The term NGS is defined, in part, as:

An entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company.

66 Pa.C.S. § 2202.

Further, Section 2202 of the Act defines natural "gas supply services" as including:

- (i) the sale or arrangement of the sale of natural gas to retail customers; and
- (ii) services that may be unbundled by the Commission under section 2203(3) of the Act (relating to standards for restructuring of the natural gas utility industry).
- (iii) The term does not include distribution service.

*Id.*

Notably, unlike the categories of Electric Generation Suppliers ("EGSs") in the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S. §§ 2801—2815, the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201—2212, does not break down NGSs into the subclasses of aggregator, broker and marketer.

Following the passage of the Natural Gas Choice and Competition Act in 1999, the Commission promulgated regulations governing licensing requirements for NGSs. See 52 Pa. Code §§ 62.101—114. While these regulations

<sup>1</sup> Application of Alphabuyer LLC, Docket No. A-2010-2201777, order entered October 17, 2011.

generally require all suppliers of retail natural gas supply services to obtain a NGS license, other than natural gas local distribution companies providing service within their certificated service territories and municipal utilities providing service within their corporate or municipal limits, the Commission exempted “marketing service consultants” and “nontraditional marketers” from these licensing requirements. In the NGS licensing regulations, the term “marketing services consultant” is defined as follows:

A commercial entity, such as a telemarketing firm or auction-type website, or energy consultant, that under contract to a licensee<sup>2</sup> or a retail customer, may act as an agent to market natural gas supply services to retail gas customers for the licensee or may act as an agent to recommend the acceptance of offers to provide service to retail customers. A marketing services consultant:

- (i) does not collect natural gas supply costs directly from retail customers;
- (ii) is not responsible for the scheduling of natural gas supplies;
- (iii) is not responsible for the payment of the costs of the natural gas to suppliers, producers, or NGDCs.

52 Pa. Code § 62.101 (footnote added).

Additionally, “nontraditional marketers” is defined as:

A community-based organization, civic, fraternal or business association, or common interest group that works with a licensed supplier as an agent to market natural gas supply services to its members or constituents. A nontraditional marketer: (i) conducts its transactions through a licensed NGS; (ii) does not collect revenue directly from retail customers; (iii) does not require its members or constituents to obtain its natural gas service through the nontraditional marketer or a specific licensed NGS; (iv) is not responsible for the scheduling of natural gas supplies; [and] (v) is not responsible for the payment of the costs of the natural gas to its suppliers or producers.”

52 Pa. Code § 62.101.

Rather than license these entities, the regulations emphasize that the licensed NGS is responsible for any violations of the statute, regulations or orders or for any fraudulent, deceptive or other unlawful marketing or billing acts committed by the marketing services consultant or nontraditional marketer. See 52 Pa. Code § 62.102 (relating to scope of licensure). See also 52 Pa. Code § 62.110(a)(3) (relating to reporting requirements) (NGSs must identify nontraditional marketers and marketing services consultants who are currently or will be acting as agents for the licensee in the upcoming year).

These regulations were finalized by the Commission in July 2001 in Licensing Requirements for Natural Gas Suppliers, Final Rulemaking Order, Docket No. L-00000150, 31 Pa.B. 3943 (July 21, 2001). As referenced in our July 2001 order, the Commission set forth its rationale for the existing exemptions to the NGS licensing requirements.

#### *Review of NGS Licensing Regulations*

During the past ten years, a number of entities similar to Alphabuyer have operated under a business model

<sup>2</sup> “Licensee” is defined as “a person or entity that has obtained a license to provide natural gas supply services to retail customers.” See also 52 Pa. Code § 62.101 (relating to definitions).

where marketers/brokers contract directly with retail customers without any affiliation to or contract with specific NGSs. Under this model, the entity falls within the definition of “marketing services consultant” if it: (1) does not collect natural gas supply costs directly from retail customers; (2) is not responsible for the scheduling of natural gas supplies; and (3) will not be responsible for the payment of costs to NGSs, producers or NGDCs. Despite this designation, some of these entities, like Alphabuyer, have applied for a NGS license in order to supply natural gas services to retail customers, despite the fact that they are not required to do so. To date, the Commission’s practice has been to issue NGS licenses to such entities upon demonstration that they meet the financial and technical requirements of NGS licensure and also comply with, and will be governed by, the applicable provisions of the Public Utility Code and Commission regulations.

However, due to the non-compulsory nature of licensing such entities and the amount of direct interaction these entities have with retail customers, we believe that now is the time to initiate a proposed rulemaking to conduct a review of the Commission’s regulations outlining the licensing requirements for natural gas suppliers. Specifically, the focus of this review will be on: (1) whether the exemption from NGS licensing of marketing services consultants and nontraditional marketers should be discontinued; and (2) whether all natural gas aggregators, marketers and brokers should be required to be licensed as NGSs in order to offer natural gas supply services to retail customers. At a minimum, initiating this proposed rulemaking will allow the Commission to receive comments to determine if our NGS licensing regulations conform with the plain language of the Act, and reflect the current business plans of NGSs appearing before this Commission so that we can determine whether continuing these exemptions is in the public interest. Finally, to be clear, the NGS licensing exemptions contained in 52 Pa. Code § 62.102 shall remain in effect until such time as the Commission adopts regulations that rescind them.

#### *Proposed Revisions*

In order to solicit comment on the possible rescission of the exemptions of marketing services consultants and nontraditional marketers from NGS licensing requirements, we propose the following revisions to our regulations:

##### *Section 62.101. Definitions.*

The definitions of “marketing service consultant” and “nontraditional marketer” are proposed to be deleted.

##### *Section 62.102. Scope of licensure.*

Subsections 62.102(d) and (e) are proposed to be deleted. Because marketing service consultants and nontraditional marketers are proposed to be licensed, we are requesting comment to determine whether it is appropriate to remove responsibility from a licensed NGS for violations of the Public Utility Code, and applicable Commission regulations, orders and directives and for fraudulent, deceptive or other unlawful marketing or billing acts committed by a marketing service consultant or a nontraditional marketer.

##### *Section 62.110. Reporting Requirements.*

Subsection 62.110(a)(3) is proposed to be deleted. This section required a licensee to report the names and addresses of nontraditional marketers and marketing services consultants who are acting or will be acting as agents for the licensee in the upcoming year.

### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 3, 2012, the Commission submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. In addition to submitting the proposed rulemaking, the Commission provided IRRC and will provide the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

### Conclusion

This order sets forth proposed amendments to the NGS licensing regulations that eliminate the exemption from licensing requirements for marketing service consultants and nontraditional marketers. This order also establishes a comment period that ends 60 days from the date of the publication of this order in the *Pennsylvania Bulletin*. Note that we are particularly interested in receiving comments on the costs that would be incurred, and any savings that might be realized, by affected parties as the result of these proposed amendments. Affected parties would include marketing service consultants, nontraditional marketers, NGSs, NGDCs and customers.

Accordingly, pursuant to sections 501, 504, 1501, 1504, 2202, and 2208 of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 1501, 1504, 2202, and 2208; sections 201 and 202 of the Act of July 31, 1968, P. L. 769 No. 240, 45 P. S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b); section 745.5 of the Regulatory Review Act, 71 P. S. § 745.5; and section 612 of the Administrative Code of 1929, 71 P. S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are proposing to amend our regulations as set forth in Annex A; *Therefore,*

#### *It Is Ordered That:*

1. A rulemaking docket shall be opened to revise regulations at 52 Pa. Code §§ 62.101, 62.102 and 62.110 relating to licensing requirements for natural gas suppliers as set forth in Annex A.
2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall submit this order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. An original and 15 copies of written comments referencing the docket number of the proposed regula-

tions be submitted within 60 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn.: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265. To facilitate posting, a courtesy copy of each comment filed shall be forwarded via electronic mail to Patricia Krise Burket at pburket@pa.gov, Brent W. Killian at bkillian@pa.gov and Cyndi Page at cypage@pa.gov.

6. A copy of this order and Annex A shall be served on all jurisdictional natural gas distribution companies, all licensed natural gas suppliers, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Energy Association of Pennsylvania.

7. The Office of Competitive Market Oversight shall electronically send a copy of this Order and Annex A on all persons on the contact list for the Stakeholders Exploring Avenues to Remove Competitive Hurdles (SEARCH).

8. A copy of this order and Annex A shall be posted on the Commission's web site at the Office of Competitive Market Oversight's web page.

9. The contact persons for this proposed rulemaking are Patricia Krise Burket, Law Bureau, (717) 787-3464 (legal) and Brent W. Killian, Bureau of Technical Utility Services, (717) 783-0350 (technical).

ROSEMARY CHIAVETTA,  
*Secretary*

**Fiscal Note:** 57-288. No fiscal impact; (8) recommends adoption.

#### *Statement of Commissioner Cawley*

Before us is a tentative order to review and possibly modify the scope of the NGS licensing regulations at 52 Pa. Code § 62.101 (relating to definitions) and § 62.102 (relating to scope of licensure). The focus of this review is to examine whether or not this Commission should continue the current exemption from licensing of natural gas marketing services consultants and nontraditional marketers. Accordingly, by this tentative order, the Commission will initiate this review.

Currently, rather than license nontraditional marketers and marketing services consultants, the regulations emphasize that the licensed NGS is responsible for any violations of the statute, regulations or orders or for any fraudulent, deceptive or other unlawful marketing or billing acts committed by the marketing services consultant or nontraditional marketer. See 52 Pa. Code § 62.102 (relating to scope of licensure); see also 52 Pa. Code § 62.110(a)(3) (relating to reporting requirements) (NGSs must identify nontraditional marketers and marketing services consultants who are currently or will be acting as agents for the licensee in the upcoming year).

These regulations were finalized by the Commission in July 2001 in Licensing Requirements for Natural Gas Suppliers, Final Rulemaking Order, Docket No. L-00000150, 31 Pa.B. 3943 (July 21, 2001), and the Commission's rationale for the existing exemptions to the NGS licensing requirements was set forth:

Initially we note that as the agency responsible for implementing and enforcing the Public Utility Code and the act, we are afforded great deference by the courts in our interpretation of the law. When a statute is interpreted by the agency charged with the responsibility for its administration, interpretation shall be accorded great weight and shall not be overturned unless such construction is "clearly erro-



neous.” *Cherry v. Pennsylvania Higher Education Assistance Agency*, 620 A.2d 687, 691 (Pa. Cmwlth. 1993); *Hawkins v. Pennsylvania Housing Finance Agency*, 595 A.2d 712 (Pa. Cmwlth. 1991). This is particularly true when the interpretation involves construction of a statutory mandate in a new regulatory environment. *Barasch v. Pennsylvania Public Utility Commission*, 521 A.2d 482 (Pa. Cmwlth. 1987).

Under our authority to interpret our enabling legislation, the Commission is authorized to interpret the definitions of “natural gas supplier” and “natural gas supply services” that are referenced in the definition for “natural gas supplier.” Generally, under the act, an NGS is an entity engaged in the provision at retail of natural gas supply services. Natural gas supply services are defined in general as “the sale or the arrangement of the sale of natural gas to retail consumers.” In interpreting “natural gas supply services,” it is not clearly erroneous for us to distinguish certain activities that would fall within that definition from those activities that would fall outside of that definition. Based on an entity’s activities, it is not clearly erroneous for this Commission to identify entities who are not engaged in providing natural gas supply services to retail customers, and to exempt those entities from licensing requirements.

In this instance, the Commission defined for exemption from the licensing requirement at section 2208 of the act, the marketing services consultant, entities that are engaged in providing marketing and sales support services to licensed NGSs under a contract. Marketing service consultants would include commercial businesses involved in telemarketing, direct mail service or information dissemination through auction-type or information only websites and electronic newsletters. Based on their activities, the marketing services consultants are indistinguishable from the NGS’s own employees, who would not be required to be individually licensed under the act. Accordingly, it is not clearly erroneous for us to identify this group as falling outside the definition of “natural gas supplier.”

Nontraditional marketers such as fraternal organizations, unions, civic organizations or governmental organizations may provide endorsements of an NGS’s service to its membership or constituency. In these types of affiliations, the sole role of the nontraditional marketer is to make the endorsement that its members are free to accept or reject on its merits. If the member decides to accept the service offered, the transaction is between the contracting member and the licensed NGS. The nontraditional marketer is not involved in the financial transaction between the licensed supplier and the customer. Under this scenario, the nontraditional marketer is not engaged in providing natural gas supply services to retail customers.

Additionally, as the competitive energy marketplace has developed over the previous 4 years, the Commission staff has received a number of requests to exempt from licensing those entities who act, not on behalf of licensees, but on behalf of retail customers as energy consultants. These energy consultants gather and evaluate information about various energy supply offerings and then make recommendations to the consumer regarding the best offer available. These consultants are not generally involved in the actual transaction for the gas supply services in

that they are not responsible for paying the producer, the supplier or the NGDC for costs related to gas supply service and they are not responsible for the procurement or the scheduling for transport of natural gas supplies.

Based on their activities, it is our interpretation that energy consultants are not engaged in the sale or arranging the sale of natural gas supply services to retail consumers. Thus, they would fall outside the definition of an NGS at section 2202 of the act. We believe that our interpretation on this point is not clearly erroneous, and that the exemption from licensing of these energy consultants would not be detrimental to the public interest because consumers would be transacting business through a licensed supplier. Accordingly, we will revise our definition of “marketing services consultant” to include those entities who act as energy advisors to consumers.

31 Pa.B. at 3944-45

Through this tentative order, we solicit comments on whether or not this exemption should continue. At the outset, it should be made clear that my affirmative vote for this tentative order should not be interpreted as my concurrence with this rulemaking. Rather, my affirmative vote only reflects my willingness to listen to stakeholder feedback on how best to balance the needs of utilities, service providers, and customers in the provision of natural gas supply requirements as our industry matures. In support of this neutral position, responses to the following questions are welcomed:

1. Should the Commission affirm its current practice by not licensing any nontraditional marketers or consultants so as not to appear to favor one entity over another?
2. What problems may result from terminating the licenses of nontraditional marketers or consultants that have voluntarily subjected themselves to our regulation, and how could the Commission mitigate those problems?
3. Are nontraditional marketers and consultants presently acting in a manner contrary to existing NGS consumer protection regulations?
4. Is there a segment of natural gas market service providers that should be more closely regulated?

Given the evolving maturation of both competitive electricity and natural gas markets, and the future growth to competitive markets related to our efforts to remove barriers to competitive retail markets, we welcome all comments to ensure that our regulations continue to advance competition and protect consumers in the most efficient manner.

JAMES H. CAWLEY,  
Commissioner

*Statement of Commissioner Pamela A. Witmer*

Before the Commission today is a proposed rulemaking order that solicits comments on the issue of removing the exemption from natural gas licensing requirements for marketing services consultants and nontraditional marketers. The rulemaking was initiated through my October 14, 2011 Motion directing staff to conduct a review of the Commission’s existing natural gas licensing regulations.

The current regulations exempt marketing services consultants and nontraditional marketers from licensing as natural gas suppliers (NGSs). However, some exempted entities have applied for a NGS license in order to supply natural gas services to retail customers, even though they are not required to do so. To date, the

Commission's practice has been to issue NGS licenses to such entities upon demonstration that they meet the financial and technical requirements of NGS licensure and also comply with, and will be governed by, the applicable provisions of the Public Utility Code and Commission regulations.

Our action here today provides an opportunity for interested parties to comment on whether it is appropriate, given the current NGS market, to discontinue the NGS licensing exemption of marketing services consultants and nontraditional marketers and instead require all natural gas aggregators, marketers and brokers to be licensed by the Commission in order to offer natural gas supply services to retail customers.

As I previously stated, I believe that it is necessary for the Commission to continuously review both the Public Utility Code and our regulations to ensure that their purpose is being properly effectuated. It is our job to ensure that the Commission's regulations are consistent with the law and responsive to changes within the regulated community. The proposed regulation addresses the issues the Commission set forth in its October 14 Motion.

I also wish to stress my desire for interested parties to comment on these proposed changes. In reviewing the proposed rulemaking, I believe it is instructive and appropriate for parties to review comments previously submitted on this issue under the 2001 proceeding that promulgated our current regulation. See Licensing Requirements for Natural Gas Suppliers, Final Rulemaking Order, Docket No. L-00000150, 31 Pa.B. 3943 (July 21, 2001).

PAMELA A. WITMER,  
*Commissioner*

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PUBLIC UTILITY COMMISSION**

**SUBPART C. FIXED SERVICE UTILITIES**

**CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE**

**Subchapter D. LICENSING REQUIREMENTS FOR NATURAL GAS SUPPLIERS**

**§ 62.101. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

[ *Marketing services consultant*—A commercial entity, such as a telemarketing firm or auction-type website, or energy consultant, that under contract to a licensee or a retail customer, may act as an agent to market natural gas supply services to retail gas customers for the licensee or may act as an agent to recommend the acceptance of offers to provide service to retail customers. A marketing services consultant:

(i) Does not collect natural gas supply costs directly from retail customers.

(ii) Is not responsible for the scheduling of natural gas supplies.

(iii) Is not responsible for the payment of the costs of the natural gas to suppliers, producers, or NGDCs. ]

\* \* \* \* \*

[ *Nontraditional marketer*—A community-based organization, civic, fraternal or business association, or common interest group that works with a licensed supplier as an agent to market natural gas supply services to its members or constituents. A nontraditional marketer:

(i) Conducts its transactions through a licensed NGS.

(ii) Does not collect revenues directly from retail customers.

(iii) Does not require its members or constituents to obtain its natural gas service through the nontraditional marketer or a specific licensed NGS.

(iv) Is not responsible for the scheduling of natural gas supplies.

(v) Is not responsible for the payment of the costs of the natural gas to its suppliers or producers. ]

\* \* \* \* \*

**§ 62.102. Scope of licensure.**

\* \* \* \* \*

[ (d) A nontraditional marketer is not required to obtain a license. The licensed NGS shall be responsible for violations of 66 Pa.C.S. (relating to the Public Utility Code), and applicable regulations of this title, orders and directives committed by the nontraditional marketer and fraudulent, deceptive or other unlawful marketing or billing acts committed by the nontraditional marketer.

(e) A marketing services consultant is not required to obtain a license. The licensed NGS shall be responsible for violations of 66 Pa.C.S. and applicable regulations of this title, orders and directives committed by the marketing services consultant and fraudulent, deceptive or other unlawful marketing or billing acts committed by the marketing services consultant. ]

**§ 62.110. Reporting requirements.**

(a) A licensee shall file an annual report on or before April 30 of each year, for the previous calendar year. The annual report shall contain the following information:

\* \* \* \* \*

[ (3) The names and addresses of nontraditional marketers and marketing services consultants who are currently or will be acting as agents for the licensee in the upcoming year. ]

\* \* \* \* \*

[Pa.B. Doc. No. 12-649. Filed for public inspection April 13, 2012, 9:00 a.m.]