

# Philadelphia Gas Works

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September 9, 2010

## VIA EXPRESS MAIL

Rosemary Chiavetta - Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: **Philadelphia Gas Works' Comments to the August 10, 2010 Final Rulemaking Order; Docket No. L-2008-2069114**

Dear Secretary Chiavetta:

Enclosed for filing are an original and fifteen (15) copies of Philadelphia Gas Works' Comments to the August 10, 2010 Final Rulemaking Order.

If you have any questions, please contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gregory J. Stunder", is written over the typed name.

Gregory J. Stunder

Enclosure

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PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA. 17105-3265

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Natural Gas Distribution Companies and the  
Promotion of Competitive Retail Markets

Docket No. L-2008-2069114

COMMENTS OF PHILADELPHIA GAS WORKS  
TO THE AUGUST 10, 2010 FINAL RULEMAKING ORDER

I. INTRODUCTION

In its September 11, 2008 Final Order and Action Plan regarding the Commission's *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group*<sup>1</sup> (*SEARCH Order*), Docket No. I-00040103F0002 (*SEARCH Order*), the Commission determined that one way to increase effective competition in the retail natural gas market was to revise the Natural Gas Supply Customer Choice regulations. On March 26, 2009, the Pennsylvania Public Utility Commission (the "Commission") issued a Proposed Rulemaking Order (the "March 26 Order") setting forth the proposed addition of Subchapter G titled "Natural Gas Distribution Companies and Competition" at 52 Pa. Code §§ 62.221. This Proposed Rulemaking seeks to adopt regulations governing the relationships between Natural Gas Distribution Companies ("NGDCs") and the Natural Gas Suppliers ("NGSs") which sell, or seek to sell, natural gas to end users on the NGDC distribution systems. The March 26, 2009 Order and proposed regulations were published in the *Pennsylvania Bulletin* on July 11,

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<sup>1</sup> The Stakeholders had been convened based on the Commission finding that "effective competition" did not exist in the retail natural gas market in accordance with 66 Pa.C.S. § 2204(g) (relating to investigation and report to General Assembly). *See Investigation into the Natural Gas Supply Market: Report to the General Assembly on Competition in Pennsylvania's Retail Natural Gas Supply Market*, Order entered at Docket No. I-00040103.

2009 (39 Pa.B. 3461) and interested parties filed comments by August 25, 2009. The Commission reviewed the comments and issued an additional Order on August 10, 2010 (August 10 Order) revising the proposed regulations and requesting further comments by September 9, 2010.

Philadelphia Gas Works (“PGW” or the “Company”) provides natural gas distribution services and natural gas supply to approximately 500,000 customers in the City and County of Philadelphia. Currently, three (3) NGSs are licensed to provide natural gas supply to PGW’s transportation customers.

PGW has reviewed the August 10 Order and supports many aspects of the proposed rulemaking. At the same time, PGW believes that the proposed regulations can be further clarified and strengthened in a number of important respects. The following comments are submitted with these objectives in mind.

## **II. SECTION-BY-SECTION COMMENTS**

### **§ 62.223. PTC.**

The newly revised subsection §62.223(B) requires the unbundling of costs related to the Supplier of Last Resort (“SOLR”) function by shifting these costs from base rates to a surcharge that is only billed to the firm customers who continue to receive natural gas supply from the NGDC. The result of this unbundling is that firm customers who choose to receive natural gas supply from an NGS will no longer be required to pay for the SOLR-related costs incurred by the NGDC. Nonetheless, the customers who shop for alternative natural gas supply from an NGS still substantially benefit from the SOLR function. One of the primary responsibilities of the NGDC/SOLR is to provide “natural gas supply services to those customers whose natural gas supplier has failed to deliver its requirements.” 66 Pa.C.S.A. §

2207(a)(2)(iii). The proposed unbundling regulation flatly contradicts a fundamental rate making principle which provides that cost recovery should follow cost causation.

PGW recommends the following revision in order to provide for the proper recovery of costs from both shopping and non-shopping customers (deletions struck through):

~~(B) An NGDC shall file a tariff change under 66 Pa.C.S. § 1308(a) to identify the natural gas procurement costs included in base rates and shall propose tariff revisions designed to remove those costs from base rates and to recover, on a revenue neutral basis, those annual costs under 66 Pa.C.S. §1307 (relating to sliding scale of rates; adjustments). Natural gas procurement costs shall include the following elements:~~

~~(1) — Natural gas supply management costs, including natural gas supply bidding, contracting, hedging, credit, risk management costs, any scheduling and forecasting services provided exclusively for SOLR service by the NGDC, and applicable administrative and general expenses related to those activities.~~

~~(2) — Administrative costs, including education, regulatory, litigation, tariff filings, working capital, information system and associated administrative and general expenses related exclusively to SOLR service.~~

~~(3) — Applicable taxes, excluding sales tax.~~

#### §62.224. POR Programs.

The August 10, 2010 Order provides a revised subsection (a)(2) as follows:

(a) *Program design.*

\*\*\*\*\*

(2) An NGDC ~~may~~**shall** purchase receivables **only** associated with natural gas supply service charges and may not purchase other receivables that may be ~~incurred~~**held** by NGSs. The NGS shall certify that charges do not include receivables for any other products or services. **In order to qualify for participation in a POR program an NGS shall use consolidated billing from the NGDC, except in one or both of the following instances:**

**(I) An NGS participating in an NGDC's POR program may separately bill for basic supply service that the NGDC's consolidated billing system cannot accommodate;**

**(II) An NGS participating in an NGDC's POR program may separately bill a customer if the NGS is providing a service or product that does not meet the definition of basic natural gas supply service.**

PGW is requesting clarification so that the proposed regulation cannot be misinterpreted. Although there is a strong inference that the proposed regulation does not require NGDCs to purchase the receivables related to an NGS's separate bills "for basic supply service that NGDC's consolidated billing system cannot accommodate" (subsection (a)(2)(I)) and an NGS's separate bills for a "a service or product that does not meet the definition of basic natural gas supply service" (subsection (a)(2)(II)), PGW is concerned that a different inference may be drawn. The regulation should clearly establish that charges not billed by NGDC consolidated billing may not be sold to the NGDC via a POR program. PGW joins Columbia Gas and the Energy Association of Pennsylvania in the following proposed revision (additions underlined and deletions struck through):

(a) *Program design.*

\*\*\*\*\*

**(2) An NGS electing to sell their receivables to an NGDC must include all of their accounts receivable related to choice residential and small business basic natural gas supply service in the POR program.**

(23) An **NGS may sell receivables** ~~NGDC shall purchase receivables~~ only associated with **basic** natural gas supply service charges and may not purchase ~~sell~~ other receivables **related to products and services sold in relation to natural gas supply service or in addition to natural gas supply service.** ~~that may be held by NGSs.~~ The NGS shall certify that charges do not include receivables for any other products or services. In order to qualify for participation in a POR program an NGS shall use consolidated billing from the NGDC **for gas supply charges.** ~~except in one or both of the following instances:~~

- ~~(I) An NGS participating in an NGDC's POR program may separately bill for basic supply service that the NGDC's consolidated billing system cannot accommodate;~~
- ~~(II) An NGS participating in an NGDC's POR program may separately bill a customer if the NGS is providing a service or product that does not meet the definition of basic natural gas supply service.~~

**§ 62.225. Release, assignment or transfer of capacity.**

The newly revised subsection (a) provides that an NGDC shall (instead of “may” as originally proposed in the prior rulemaking) release, assign or transfer firm storage or transportation capacity to licensed NGSs or large commercial or industrial customers on its system. The new revision from “may” to “shall” directly contradicts the Natural Gas Choice and Competition Act (“the Act”) which provides:

*A natural gas distribution company holding contracts for firm storage or transportation capacity, including gas supply contracts with Pennsylvania producers, on the effective date of this chapter, or a city natural gas distribution operation on the date the commission assumes jurisdiction over such city natural gas distribution operation, **may at its option** release, assign or otherwise transfer such capacity or Pennsylvania supply, in whole or part, associated with those contracts on a nondiscriminatory basis to licensed natural gas suppliers or large commercial or industrial customers on its system.*

66 Pa.C.S.A. § 2204(d)(1) (emphasis added). As a result of the foregoing statute, the Commission is prohibited from enacting a regulation that requires mandatory release/assignment/transfer (“release”) of capacity.

As set forth in PGW’s prior comments on subsection 62.225, simply releasing firm storage capacity on a recallable basis is not sufficient. For example, NGDCs must carefully consider how much firm storage it can release because the NGDC/SOLR must always maintain an adequate level of natural gas in storage depending upon the time of year. NGSs do not have this responsibility. As a result, an NGS could deplete released storages in a manner that does not comport with maintaining the security of supply (which is designed to protect customers). If the NGS prematurely depletes supplies and defaults on its obligations to its customers, SOLR responsibilities require the NGDC to replace the missing natural gas at what most likely will be higher priced gas. Additionally, in the worst case scenario, the NGDC could be in the

position of not being able to replace the gas at all if there are production interruptions, pipeline interruptions or depletion of its on-system peaking storage.

New York State, which many in Pennsylvania view as having an effective natural gas choice program, does not require mandatory release of firm storage capacity. Although some NGDCs do assign firm storage capacity, other NGDCs provide capacity release alternatives to natural gas suppliers like balancing services and bundled sales service.<sup>2</sup> The lack of mandatory capacity release in New York recognizes that each NGDC system is unique and sometimes release of firm storage capacity is not an option depending upon the mix of off-system capacity and daily on-system requirements. PGW's own unique circumstances include design day supply that is heavily dependent on on-system storage in addition to FERC regulations that prohibit release of one-half of PGW's off-system storage. In light of these circumstances, PGW does provide an alternative which permits NGSs to replace natural gas in-kind during injection season if the total supply provided by the NGS during the prior heating season is less than the supply used by the firm Choice customers.

In order to properly consider the foregoing, PGW recommends revising the regulation by removing the most recent changes (addition underlines and deletions struck through):

**§ 62.225. Release, assignment or transfer of capacity.**

(a) An NGDC holding ~~new or renewed~~ contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or a city natural gas distribution operation, ~~shall~~ **may** release, assign or transfer the capacity or Commonwealth supply, in whole or in part, associated with those contracts to licensed NGSs or large commercial or industrial customers on its system, ~~as set forth in 66 Pa. C.S. § 2204 (e).~~

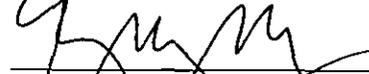
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<sup>2</sup> Orange and Rockland Utilities, Inc. offer a bundled sales service to suppliers for a portion of their firm supply to Orange and Rockland customers which permits the suppliers to take advantage of injection season market pricing.

### III. CONCLUSION

PGW appreciates the opportunity to provide comments to the proposed rulemaking and the Company looks forward to continue working with the Commission and other stakeholders on these critical issues. We respectfully request that the Commission incorporate our suggestions into the proposed regulations.

Respectfully Submitted,



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Attorney for Philadelphia Gas Works

Date: September 9, 2010

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