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August 25, 2009

By Electronic Filing

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

In re: Docket No. L-2008-2069114
Natural Gas Distribution Companies and the
Promotion of Competitive Retail Markets

Dear Secretary McNulty:

Enclosed for filing on behalf of Equitable Gas Company, LLC is the original of its Comments to the Public Utility Commission's Proposed Rulemaking Order entered March 27, 2009 in the above matter. The e-filing receipt is also enclosed.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

Thomas T. Niesen

cc: Lawrence F. Barth, Esquire (by email w/encl.)
Daniel L. Frutchey, Esquire (w/encl.)
John M. Quinn (w/encl.)

090825-McNulty (Comments).wpd

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Distribution Companies	:	
And the Promotion of Competitive	:	**Docket No. L-2008-2069114**
Retail Markets	:	

EQUITABLE GAS COMPANY'S
COMMENTS TO THE PROPOSED RULEMAKING
ORDER ENTERED MARCH 27, 2009

AND NOW, comes Equitable Gas Company, LLC ("Equitable" or "Company"), by its attorneys, and, submits the following Comments in accordance with the Public Utility Commission's ("Commission") Proposed Rulemaking Order ("Order") entered March 27, 2009 in the above captioned proceeding:

1. On March 27, 2009, the Commission entered an Order adopted at its Public Meeting of March 26, 2009, opening a rulemaking proceeding to adopt regulations governing the relationships between Natural Gas Distribution Companies and Natural Gas Suppliers which sell, or seek to sell natural gas to end users on the NGDC distribution systems.

2. The Order invites interested parties to submit comments on the proposed regulation set forth in Annex A to the Order.

3. Equitable is pleased to have the opportunity to comment on the Proposed Rulemaking Order at Docket No. L-2008-2069114. Equitable's Comments are presented in the Appendix A attached hereto for discussion purposes in response to the Commission's invitation and without prejudice to any position Equitable might take in any subsequent proceeding or proceedings involving these or any other matters. Equitable is also joining in comments being filed by the Energy Association of Pennsylvania.

WHEREFORE, Equitable Gas Company, LLC submits these Comments to the Public Utility Commission's Proposed Rulemaking Order entered March 27, 2009.

Respectfully submitted,

By______________________

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Attorneys for Equitable Gas Company, LLC

Date: August 25, 2009

APPENDIX A

EQUITABLE GAS COMPANY, LLC
("Equitable" or "Company")
Comments to the Public Utility Commission's
Proposed Rulemaking Order and Proposed Regulations at
52 Pa. Code, Chapter 62, Section 62.221, *et seq.*

General Comments

The proposed regulations seek to identify and remove several cost elements from NGDC base rates outside of a base rate proceeding as part of an NGDC Section 1307(f) proceeding. Equitable believes that there would be significant factual and legal hurdles associated with an attempt to identify and remove costs from base rates outside of a base rate proceeding. It would certainly seem to be arguable that the proposed regulations contemplate single issue ratemaking which is often claimed to be contrary to established ratemaking principles. Moreover, as is the situation with several other NGDCs, Equitable has recently concluded a base rate proceeding through "black box" settlement which impedes a line-by-line identification and removal of cost elements from base rates outside of a base rate proceeding.

Additionally, Equitable believes that the proposed regulations, if implemented, could result in unintended customer confusion through frequent changes to the total rate for sales and/or transportation customers. The regulations, for example, would provide for monthly adjustment to the proposed gas procurement charge (GPC). Additionally, several new surcharges would be implemented as a result of the proposed regulations. It is not clear whether the new surcharges would be separately identified on the bill. Equitable believes that a lengthy list of separate surcharges on the bill would be a further source of customer confusion and dissatisfaction.

Comments to Specific Proposed Regulations

§62.222 Definitions

The proposed "gas procurement reduction rate" (GPRR) is defined as an "equal offsetting credit to the GPC, billed to all residential and small commercial customers." It is not clear from the proposed definition what is intended by this "equal offsetting credit to the GPC" or how this rate is to be determined, nor is it clear what cost element is to be reflected in the GPRR.

§62.223

Section 62.223 – Price to Compare – of the proposed regulations would create a gas procurement charge (GPC). The GPC is to be a mechanism for the recovery of natural gas procurement costs removed from base rates. Several questions occur and remain unanswered by the proposed regulation:

1. It is not possible to identify each and every NGDC fuel related procurement cost by regulation and the Commission has not attempted to do so. Instead, the Order entered March 27, 2009 states that "**all** fuel procurement-related costs" would be removed from base rates and then recovered through the GPC. These costs and their magnitude can only be properly determined during a base rate proceeding.

2. The proposed regulation provides in subsection (a) that the GPC would be adjusted and reconciled annually as part of the 1307(f) process. Subsection (h), inconsistently provides, however, that the GPC shall be adjusted monthly.

3. The proposed regulation and proposed net gas procurement adjustment (NGPA) would require the removal of natural gas procurement costs from base rates outside of a base rate proceeding. Although intended to be revenue neutral, there would be significant factual and legal hurdles associated with the attempt to identify and remove costs from base rates outside of a base rate proceeding especially for those NGDCs, such as Equitable, whose existing base rates were determined by "black box" settlement.

4. Subsection (e) of the proposed regulation appears to contemplate a GPC to be charged to SOLR customers and an offsetting GPRR credit for residential and small business customers. The intent and purpose of the subsection is not clear. The proposed regulations do not make clear what cost element(s) is to be reflected in the GPRR.

§62.224

The proposed regulation would appropriately recognize that receivables other than those associated with natural gas supply should not be part of a POR program and would require NGSs to certify that charges do not include receivables for any other products or services. In addition to self certification. Equitable recommends that an annual audit of the NGS should be conducted to confirm that no receivables for any other products or services are part of the NGS receivables. The audit should be conducted by an independent auditor and paid for by the NGS.

Subsection (a)(3) of the proposed regulation would allow an NGDC to voluntarily purchase accounts receivable at a discount to recover incremental costs associated with POR program development, implementation and administration. For those NGDCs such as Equitable whose existing base rates were determined by "black box" settlement, the determination of incremental costs is problematic. Actual bad debt write off experience, for example, is not a settled term in the settlement. Additionally, bad debt experience related to natural gas supply for Equitable's existing NGS customers was not part of Equitable's rate case claims in its recent rate case filing. Finally, different customers pay differently. Overall, customers might exhibit write offs of 2%. A marketer, however, might focus on a customer group with a different write off history.

Subsection (a)(4) of the proposed regulation would require the same discount rate to be applied to the purchase of all accounts receivable it purchases on its system. Again, however, differences between NGS customer bases could warrant differences in the discount rate between marketers within a POR program.

Subsection (a)(9) of the proposed regulation would allow the NGDC to include the difference between its cost of purchased receivables and the amounts it has actually collected as part of its next base rate case. Equitable believes that the regulation should allow and make clear that the NGDC should be allowed to create a regulatory asset for the difference in costs incurred between rate cases for the POR program, grossed-up for a rate of return and taxes, then allowed for base rate recovery in the NGDC's next base rate case.

§62.226

The proposed regulation would allow the NGDC to create a nonbypassable reconcilable surcharge to recover costs of implementing and promoting natural gas competition. Subsection (c) provides that the surcharge would be applied to units sold or transported without regard to customer class. The regulation should be revised, however, to provide that the proposed surcharge should be recovered only from choice eligible customers and not large volume commercial and industrial customers with negotiated rate contracts.

§62.227

The proposed regulation would require the NGDC to create a nonbypassable reconcilable surcharge to recover the NGDC regulatory assessment. Subsection (c) provides that the surcharge would be applied to units sold or transported without regard to customer class. The regulation should be revised, however, to provide that the proposed surcharge should be recovered only from choice eligible customers and not large volume commercial and industrial customers with negotiated rate contracts.