Energy Association of Pennsylvania

800 North Third Street, Suite 301 • Harrisburg, Pennsylvania 17102

Telephone (717) 901-0600 • Fax (717) 901-0611 • www.energypa.org

Via Hand Delivery

September 9, 2010

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

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

Dear Secretary Chiavetta,

Enclosed for filing, please find an original and fifteen (15) copies of the Energy Association of Pennsylvania's Comments in the above-referenced Docket Number.

Very truly yours,

Donna M J. Clark

Donna M.J. Clark
Vice President & General Counsel

cc: James H. Cawley, Chairman
Tyrone J. Christy, Vice Chairman
Robert F. Powelson, Commissioner
Wayne E. Gardner, Commissioner
John F. Coleman, Jr., Commissioner
David E. Screven, PUC
Richard Wallace, PUC

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF
THE ENERGY ASSOCIATION OF PENNSYLVANIA TO THE ADVANCED NOTICE OF FINAL RULEMAKING ORDER ENTERED AUGUST 10, 2010

Terrence J. Fitzpatrick
President and CEO
E-Mail: tfitzpatrick@energypa.org

Donna M. J. Clark
Vice President and General Counsel
E-Mail: dclark@energypa.org

ENERGY ASSOCIATION OF PENNSYLVANIA
800 North Third Street, Suite 301 APC Building
Harrisburg, PA 17102
Phone: (717) 901.0600
Facsimile: (717) 901.0611

Date: September 9, 2010

I. Introduction

The Energy Association of Pennsylvania ("EAP" or "Association") files on behalf of its gas members[1] the following comments on the Advanced Notice of Final Rulemaking ("ANOFR") Order at Docket No. L-2008-2069114 entered by the Pennsylvania Public Utility Commission ("PUC" or "Commission") on August 10, 2010. Pursuant to the ANOFR Order, the Commission proposes regulations governing the relationship between Natural Gas Distribution Companies ("NGDC") and Natural Gas Suppliers ("NGS") which sell, or seek to sell natural gas to retail end users on the NGDC distribution systems. Through these regulations, the PUC seeks "to ensure that retail consumers of natural gas will be able to choose among natural gas suppliers on reasonable and nondiscriminatory terms, while, at the same time, maintaining the safety and reliability of natural gas distribution service to all retail gas customers." ANOFR Order at p.1.

The instant rulemaking proceeding, originally initiated in March 2009, focuses on (1) formulation of the Price to Compare ("PTC"); (2) reconciliation of Purchase Gas Costs ("PGC") and adjustments to the PGC; (3) the implementation of Purchase of Receivable ("POR") programs; (4) requirements for the nondiscriminatory release, assignment and transfer of capacity by an NGDC at the applicable contract rate; and (5) the creation of surcharges to provide for the recovery of costs related to the implementation and promotion of natural gas competition in the Commonwealth as well as the recovery of regulatory assessments.

Following the consideration of the filed public comments, the Commission issued an ANOFR Order to allow further public input on revisions to the proposed regulations. The ANOFR Order requests comments within thirty (30) days of the entry of the Order or September 9, 2010 and was entered with a statement by Vice Chair Tyrone J. Christy which details a number of specific topics for additional input.

---

[1] Gas distribution company members supporting these comments include: Columbia Gas of Pa; Peoples Natural Gas Company LLC; Equitable Gas Company, LLC; National Fuel Gas Distribution Corp.; PECO Energy Company; Philadelphia Gas Works; UGI Central Penn Gas; UGI Penn Natural Gas; UGI Utilities, Inc. and Valley Energy.

It is important to note that the instant rulemaking is part of a series of rulemakings[2] by which the Commission seeks to facilitate the development of a competitive retail market as outlined in its Final Order and Action Plan entered on September 11, 2008.[3] In addition to establishing a detailed action plan, the September 11, 2008 Order released a Report on Stakeholders' Working Group (S.E.A.R.C.H.). The Report compiled by the PUC staff after multiple meetings between stakeholders (including NGDCs, NGSs and consumer representatives) over a two-year period addressed numerous issues relating to competition in the natural gas retail market.

Throughout the S.E.A.R.C.H. process, the stakeholders discussed their respective positions mindful of the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§2201-2212 ("Act"), which promotes competition in the retail market, while leaving the SOLR function largely with the NGDCs who also retain the obligation to achieve least cost procurement of gas supply. See 66 Pa. C.S. 1307(f). These sometimes conflicting concepts and obligations resulted in a wide ranging discussion among stakeholders which did not result in consensus positions. The process, however, furthered commitment to competition and the recognition, particularly on the part of the NGDCs, that elimination of barriers to supplier entry and participation in the marketplace must be balanced with the obligations inherent in the regulatory compact, i.e. provision of safe, reliable and affordable service.

The Association commends the Commission for seeking comments to an ANOFR Order prior to considering final regulations particularly where, as here, the regulations provide for fundamental changes in the business practices of NGDCs so as to more effectively promote retail choice and ease the market entry of NGSs. The Association appreciates the substantial

---

[2] Three rulemakings proceedings have been initiated by the Commission to address its conclusion that effective competition does not exist in Pennsylvania's retail natural gas markets. See, Report to the General Assembly on Pennsylvania's Retail Natural Gas Supply Market, Docket No. I-00040103 issued in October 2005.

[3] Investigation into the Natural Gas Supply Market. Report on Stakeholders' Working Group (S.E.A.R.C.H.); Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market, Docket No. I-00040103F0002, Final Order and Action Plan entered on September 11, 2008.

changes the Commission advances in response to the comments filed to the original Proposed Rulemaking Order entered in March 2009.

The instant comments will focus solely on those changes which EAP believes are generally in need of further revision and clarification. EAP comments must be read in conjunction with the comments of its individual members which will certainly provide a more detailed analysis particularly as it relates to the operations of the specific NGDC transmission and distribution systems. Additionally, attached hereto and incorporated herein is the Annex A that was included with the ANOFR Order with the Association's suggested additions and deletions highlighted in yellow.

II. Comments

A. §62.223. Price to Compare

In general, the Association agrees that the changes proposed in the ANOFR Order will simplify the process of establishing a PTC but remains concerned that the resulting PTC will not adequately reflect the reality that expenses related to the NGDC supplier of last resort ("SOLR") function are not borne by the suppliers and consequently, not reflected in the price quoted by the NGS to a potential customer. EAP appreciates the recognition by the Commission at p. 16 of its Order that, if in the future the NGDC SOLR function decreases to the point where SOLR rates do not support any residual gas procurement role, NGDCs can seek relief either in a base rate case or in a proceeding to designate an alternative SOLR.

EAP remains concerned, however, that the contemplated revisions if adopted may be revenue neutral but will not be neutral between customer classes in violation of 66 Pa. C. S. 2203. The proposed revisions fail to recognize that the SOLR function provides benefits to both shopping and non-shopping customers and that those unavoidable procurement costs are *fixed costs of NGDC SOLR service that are not appropriate for inclusion in the PTC.* Consequently, EAP maintains that only those SOLR gas procurement costs intended solely for the benefit of sales customers should be included in the PTC. See EAP changes in Annex A attached hereto wherein it is proposed that elements comprising the PTC consist of the gas cost rate and the merchant function charge, eliminating the gas procurement cost from the PTC.

To the extent the Commission continues to seek to remove "all commodity-related costs" from the delivery charge as sought by NGSs, EAP asks the Commission to carefully consider modifications to the regulatory language proposed in individual comments filed by NGDCs so as to provide the flexibility needed to operate diverse distribution systems and so as to allow any final resolution of unbundling to be determined in individual proceedings.

B. §62.224. Purchase of Receivables Program

The Association and its members agree with the Commission's perspective that the implementation of voluntary POR programs can offer one of the best enticements to increase NGS participation in the retail natural gas supply market. A successful POR program should be structured so as to compensate the NGDC for the risks and costs associated with the implementation and ongoing administration of purchase of receivables from an unregulated entity. EAP thus welcomes the revision requiring that a NGS participating in a POR program use consolidated billing from the NGDC.

The Association, however, would strike the language in the proposed revisions found at 62.224 (a)(2)(i) and (ii) which appears to exempt the NGS from participating in the consolidated billing function in two distinct circumstances. This revision could be interpreted as requiring the NGDC to purchase receivables but exempting the NGS from consolidated billing if the NGS develops a commodity product that is beyond the current billing capabilities of the NGDC without costly programming changes, or if it offers a service or product other than basic natural gas service. Such a result would be contrary to the ANOFR Order at pp. 24-25 which states that "to the extent an NGS is providing a service or product to customers that an NGDC's consolidated billing system cannot accommodate or the NGS wants to offer products that are bundled with non-basic services, the NGS may be permitted **to issue a separate bill for such service or product for that customer.**" (Emphasis added.)

Moreover, additional language is necessary to reflect the intent of the PUC as stated at p. 25 of the ANOFR Order that "an NGS must include all of its accounts receivable related to commodity sales in the POR program to deter any 'cherry picking' of best accounts for itself and worst account to the POR program" and that "an NGS will be required to accept all customers without using a credit check or requiring an additional security deposit."

C. § 62.225. Release, Assignment or Transfer of Capacity

EAP believes that the changes to section 62.225 set forth in the ANOFR Order requiring mandatory capacity release directly conflict with provisions of the Public Utility Code, would limit flexibility needed in NGDC operations and are not sought by or beneficial to NGSs.

Section 2204(d)(1) of the Public Utility Code governs the mandatory release, assignment or transfer by NGDCs to NGSs and/or commercial and industrial customers of existing as well as new or renewed NGDC capacity and Pennsylvania production needed to meet the NGDC's "least –cost procurement and other applicable standards pursuant to this title" (hereinafter Mandatory Assignment").[4] It unambiguously provides that such Mandatory Assignment is only to be performed at the option of the NGDC stating, in pertinent part that:

A natural gas distribution company holding contracts for firm storage or transportation capacity, including gas supply contracts with Pennsylvania producers ...may, <u>at its option</u>, assign or otherwise transfer such capacity or Pennsylvania supply, in whole or in part, associated with those contracts on a nondiscriminatory basis to licensed natural gas suppliers or large commercial or industrial customers on its system. (Emphasis added.)

[4] Section 2204(d)(1), by its terms, addresses existing capacity and Pennsylvania production, and Section 2204(e)(5) makes the same rules applicable to new and renewed capacity and Pennsylvania production that meet the standards set for in Section 2204(e)(1)-(4).

The discretionary nature of Mandatory Assignment is further reinforced by the provisions of Section 2204(d) (5) which provide, in pertinent part:

On or after July 1, 2002 ... the commission shall have the authority to prevent such assignments, releases or transfers under either of the following circumstances:

(i) the natural gas distribution company, alone or together with one or more natural gas suppliers, voluntarily proposes an alternative to such assignments, releases or transfers, and the commission finds such alternative to be in the public interest. (Emphasis added.)

In addition, Section 2203(5) of the Public Utility Code provides:

The Commission shall require that restructuring of the natural gas industry be implemented in a manner that does not unreasonably discriminate against one customer class for the benefit of another.

The discretion afforded NGDCs under Section 2204(d)(1) and (5) is not provided so that NGDCs can discriminate in their Mandatory Assignments. Such discrimination is prohibited under the statute, and any attempts to improperly discriminate can be addressed in the tariff filings of NGDCs seeking to implement Mandatory Assignment or through the Commission's complaint processes. Instead, the flexibility provided under Section 2204(d)(1)and (5) is needed because NGDCs must comply with FERC rules and must take actions in the context of such rules necessary to enable them to fulfill their SOLR function.

As originally proposed in the Commission's Proposed Rulemaking Order entered on March 27, 2009, Section 62.225(a) accurately recited the Mandatory Assignment provisions of Section 2204(d) on a word-for-word basis. In its comments, the Independent Regulatory Review Commission ("IRRC") noted that the regulation simply tracked existing legislative language and suggested that the Commission either delete the section or explain the need for it. In its ANOFR Order, the Commission states that it "declines to revise or delete this proposed section of the regulation". ANOFR Order at p. 31.

Contrary to the stated intention of the Commission, however, the text of the revised Section 62.225 clearly contains black-lined revisions which were never previously published and which are plainly at odds with the statutory language of Section 2204(d). Moreover, since the ANOFR Order does not reference the changes, the meaning and intent of those revisions is unclear although it appears that the Commission believes that the failure to release storage capacity may be discriminatory, without acknowledging or discussing the reasons why NGDCs may need to retain such assets.

Among the changes to Section 62.225(a) is the insertion of the words "NEW AND RENEWED" in the first sentence, and the addition of the words "AS SET FORTH IN 66 PA.C.S. §2204(E)" which is a section of the Public Utility Code addressing new and renewed capacity. Section 62.225(a) of the ANOFR also substitutes the word "SHALL" for the word "may" contrary to the language found in Section 2204(d) of the Public Utility Code and stated in the original wording of proposed regulatory Section 62.225(a).

The Commission cannot by regulation change the discretionary nature of Mandatory Assignments as set forth in the statutory language. This, however, does not preclude the Commission from promoting the manner in which Mandatory Assignment is to be performed. The Commission does not need to make release, transfer or assignment of capacity mandatory in order to prevent undue discrimination. Moreover, consistent with the provisions of Section 2204(d)(5)(i) of the Public Utility Code, a NGDC and one or more NGSs may voluntarily propose "an alternative to such assignments, releases or transfers" which the Commission can accept or reject depending on whether it finds them to be in the public interest. The presence of a regulation mandating Mandatory Assignment would create confusion over the viability of this statutory alternative.

The Association thus requests replacing the word "shall" with the word "may"; striking the language "new and renewed" as well as the reference to 66 Pa. C.S. § 2204 (e).

III. Conclusion

The regulations proposed in this rulemaking are aimed at promoting competition through the elimination of barriers to market entry for suppliers. The comments above reflect suggested changes which the Association contends will further the stated goal, recognize the unique SOLR role of NGDCs, and distribute costs and risks fairly when initiating new programs such as POR and the new regulatory processes set forth at Section 62.223. The Association and its members appreciate the opportunity to provide comments and look forward to working with all stakeholders as the Commission seeks to improve competition in the natural gas retail market.

Respectfully Submitted,

Terrance J. Fitzpatrick
President & CEO
tfitzpatrick@energypa.org

Donna M. J. Clark
Vice President & General Counsel
dclark@energypa.org

Energy Association of Pennsylvania
800 North Third Street, Suite 301
Harrisburg, PA 17102

Date: September 9, 2010

Annex A

TITLE 52. *PUBLIC UTILITIES*

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE

Subchapter G. NATURAL GAS DISTRIBUTION COMPANIES AND COMPETITION

§ 62.221. Purpose.

To foster a competitive retail marketplace for natural gas service to CUSTOMERS ELIGIBLE FOR SOLR SERVICE, WHICH IS A CLASS OF CUSTOMER THAT CONSISTS LARGELY OF *residential and small* ~~commercial~~ BUSINESS *customers, it is* essential that THESE consumers be able to compare the current price of gas purchased from their incumbent NGDCs with that offered for sale by NGSs. This subchapter sets forth a number of regulatory changes which will ~~provide a more level playing field between NGDCs and NGSs and, therefore,~~ promote competition for natural gas supplies.

§ 62.222. Definitions.

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

Act--66 Pa.C.S. §§ 2201--2212 (relating to THE Natural Gas Choice and Competition Act).

GPC -- Gas procurement charge —AN ELEMENT OF THE PTC, EXPRESSED ON A PER MCF OR DTH BASIS, THAT REFLECTS THE NDGC'S TOTAL NATURAL GAS PROCUREMENT COSTS. ~~A mechanism by which the effect of natural gas procurement costs removed from an NGDC's base rates are recovered~~.

~~*GPRR--Gas procurement reduction rate*--An equal offsetting credit to the GPC MFC, billed to all residential and small commercial customers.~~

MFC--MERCHANT FUNCTION CHARGE—AN ELEMENT OF THE PTC, EXPRESSED ON A PER MCF OR DTH BASIS, THAT REFLECTS THE COST OF UNCOLLECTIBLES ASSOCIATED WITH THE NGDC'S GAS COSTS.

NGDC--Natural gas distribution company--As defined in section 2202 of the act (relating to definitions).

~~*NGPA--Net gas procurement adjustment*--A tariff rider designed to create a rate neutral adjustment to currently existing base rates and the PGC rate to develop a reasonable PTC by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC~~.

NGS--Natural gas supplier--As defined in section 2202 of the act.

Natural gas supply service-- ~~The provision of natural gas to end users as defined in §62.72 (relating to definitions).~~ AS DEFINED IN SECTION 2202 OF THE ACT.

PGC--Purchase gas cost--Natural gas costs which are collected, with adjustments, by NGDCs from their customers under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments).

POR--Purchase of receivables--Program by which an NGDC purchases the accounts receivable of NGSs.

PTC--Price to compare—The current volumetric price for natural gas supply that appears on a bill issued by an NGDC to a retail customer ~~SOLR~~ AND USED BY THE CUSTOMER TO MAKE A COMPARISON WITH THE NATURAL GAS SUPPLY RATE OFFERED BY AN NGS. ~~The PTC is equal to the sum of all unbundled natural gas costs and natural gas procurement costs related charges to a default service customer for that month of service.~~

Deleted: A line item

Deleted: 's monthly bill for

Deleted: NATURAL GAS SUPPLY service

SOLR--Supplier of last resort--A supplier approved by the Commission under section 2207(a) of the act (relating to obligation to serve) to provide natural gas supply services to customers who:

(i) Contracted for natural gas that was not delivered.

(ii) Did not select an alternative NGS.

(iii) Are not eligible to obtain competitive natural gas supply.

(iv) Return to the supplier of last resort after having obtained competitive natural gas supply.

Small business customer--As defined in § 62.72.

§ 62.223. PTC.

(A) THE PTC RATE SHALL BE EXPRESSED ON A PER MCF OR DTH BASIS AND CONSIST OF THE FOLLOWING ELEMENTS:

(1) THE GAS COST RATE DETERMINED IN THE NGDC'S SECTION 1307(F) PROCEEDING, INCLUDING THE RECONCILIATION FOR OVER AND UNDER COLLECTIONS.

(2) THE MERCHANT FUNCTION CHARGE.

~~(b)~~ (C) An NGDC shall ~~remove all natural gas procurement costs from its base rates as part of its next filing under 66 Pa.C.S. § 1308(d) (relating to voluntary changes in rates). The expenses shall be recovered through a separate GPC surcharge. The NGDC shall include a proposed tariff rider to establish a GPC within the requirements of 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments).~~ FILE A MERCHANT FUNCTION CHARGE (MFC) RIDER. THE MFC MUST REMOVE THE COST OF UNCOLLECTIBLES APPLICABLE TO CURRENT GAS COST RATES FROM ITS DELIVERY RATES AND APPLY IT TO THE PTC ON A REVENUE NEUTRAL BASIS UNDER 66 PA. C.S. § 1307 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS).

(1) A WRITE-OFF FACTOR SHALL BE DETERMINED BY DIVIDING THE RETAIL UNCOLLECTIBLE EXPENSE BY RETAIL REVENUES. THE FACTOR APPLIED TO CURRENT APPLICABLE PGC RATES SHALL BE THE IMPLEMENTATION MFC AMOUNT THAT WILL BE REMOVED FROM DELIVERY RATES.

(2) AFTER IMPLEMENTATION, UNBUNDLED DELIVERY CHARGES MAY NOT BE ADJUSTED FOR THE WRITE-OFF FACTOR OUTSIDE OF A BASE RATE CASE.

(3) The MFC SHALL BE UPDATED QUARTERLY TO REFLECT NEW PGC RATES EFFECTIVE WITH EACH APPLICABLE 1307(F) FILING.

~~(c)~~ (D) ~~An NGDC, in its next purchased gas cost filing under 66 Pa.C.S. § 1307(f), shall submit a proposed tariff rider to establish a NGPA within the requirements of 66 Pa.C.S. § 1307~~. THE MFC-TARIFF RIDER MUST IDENTIFY:

(1) HOW THE SURCHARGE WILL BE CALCULATED.

(2) WHICH COSTS WILL BE RECOVERED THROUGH THE SURCHARGE BY:

(I) CUSTOMER CLASS AND COST CATEGORY

Deleted: (2) THE GAS PROCUREMENT CHARGE.

Deleted: 3

Deleted: (B) An NGDC shall ~~establish a GPC. The GPC shall be added to the cost of supply~~
~~rate developed under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments) to create a comparable PTC. The GPC shall be adjusted and reconciled annually in conjunction with the § 1307(f) process to become effective with new PGC rates.~~ 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 PROCURMENT COSTS SHALL INCLUDE THE FOLLOWING ELEMENTS:
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.
ADMINISTRATIVE COSTS, INCLUDING EDUCATION, REGULATORY, LITIGATION, TARIFF FILINGS, WORKING CAPITAL, INFORMATION SYSTEM AND ASSOCIATED ADMINISTRATIVE AND GENERAL EXPENSES RELATED EXCLUSIVELY TO SOLR SERVICE.
APPLICABLE TAXES, EXCLUDING SALES TAX.

Deleted: GPC AND

Deleted: S

~~(d)~~ (E) ~~The NGPA shall be designed to create a rate neutral adjustment to currently existing base rates and the PGC rate to develop a reasonable PTC by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC.~~ THE MFC MAY NOT BE SUBJECT TO RECONCILIATION

~~(e)~~(F) ~~The proposed NGPA tariff rider shall establish a GPC on a per MCF/DTH basis to be applied to customers' bills receiving SOLR service for the recovery of gas procurement costs currently recovered through base rates, and a GPRR on a per MCF/DTH basis, as an equal offsetting credit to the GPC, billed to all residential and small commercial customers.~~ THE MFC SHALL BE SUBJECT TO AUDIT.

~~(f) The GPC and NGPA riders must identify:~~

~~(1) How the surcharge will be calculated.~~

~~(2) Which costs will be recovered through the surcharge by:~~

~~(i) Customer class and cost category~~

~~(ii) Federal Energy Regulatory Commission account number including the specific sub-accounts used to recover eligible procurement costs.~~

~~(g) The NGPA rider shall remain in effect until establishment of new base rates and a PGC rider following a base rate proceeding under 66 Pa.C.S. § 1308(d).~~

~~(h) The GPC shall be adjusted monthly.~~

~~(i) The GPC shall be subject to audit.~~

~~(j) An NGDC shall adjust its PGC monthly.~~

§ 62.224. POR programs.

(a) *Program design.*

(1) An NGDC may purchase accounts receivable from licensed NGSs which operate on the NGDC system and who wish to sell ~~the~~ THEIR receivables.

(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.

(3) An NGS may sell receivables ONLY associated with basic natural gas supply service and may not sell other receivables related to products and services sold in relation

Deleted: (II) FEDERAL ENERGY REGULATORY COMMISSION ACCOUNT NUMBER, INCLUDING THE SPECIFIC SUB-ACCOUNTS USED TO RECOVER ELIGIBLE PROCUREMENT COSTS.

Deleted: GPC AND

Deleted: GPC AND

Comment [sbh1]: Referenced on page 25, first full paragraph of order but not included in text of regulations.

Deleted: 2

Deleted: NGDC ~~may~~ SHALL purchase receivables

Deleted: charges

Deleted: purchase

to natural gas supply service or in addition to natural gas supply service. 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.

Deleted: that may be ~~incurred~~ HELD by NGSs

Deleted: , EXCEPT IN ONE OR BOTH OF THE FOLLOWING INSTANCES:

Deleted: (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:

Deleted: (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.

Deleted: 3

(4) An ~~NGDC~~ NGDC'S ~~may voluntarily purchase NGS accounts receivable at a discount~~ POR PROGRAM SHALL USE A DISCOUNT RATE DESIGNED to ~~recover~~ COMPENSATE THE NGDC FOR REASONABLY PROJECTED RISK OF UNCOLLECTIBLES ASSOCIATED WITH THE NGS' CUSTOMER ACCOUNTS AND THE incremental costs associated with ~~POR program~~ THE development, implementation and administration OF THE POR PROGRAM.

~~(4) When an NGDC chooses to purchase accounts receivable at a discount, it shall negotiate the discount rate with the NGS on its distribution system.~~

~~(i) It shall give fair notice to the NGSs of the time and place of negotiation.~~

~~*(ii) It shall apply the same discount rate to all accounts receivable it purchases on its system.*~~

~~(iii) It shall renegotiate the discount rate not less than once every 5 years.~~

(5) AN NGDC MAY APPLY DIFFERING DISCOUNT RATES TO PURCHASE RECEIVABLES BASED ON DIFFERENT CUSTOMER CLASSES.

Deleted: 4

(6) POR programs must AT A MINIMUM include receivables on residential and small business customer accounts.

Deleted: 5

(7) When an NGDC purchases accounts receivable from an NGS through a Commission-approved POR program and the accounts receivable are comprised only of charges for basic natural gas supply, the NGDC may terminate service to customers for failure to pay NGS gas supply charges.

Deleted: 6

(8) To ensure that an NGDC's affiliated suppliers do not receive an advantage over nonaffiliated suppliers, a POR program shall be designed and implemented in accordance with §§ 62.141 and 62.142 (relating to standards of conduct).

Deleted: 7

(9) An NGDC POR program shall be included in a supplier coordination tariff, as defined by Commission rules, regulations and orders, and approved by the Commission prior to implementation.

Deleted: 8

(10) ~~An NGDC may include the difference between its cost of the purchased receivables and the amounts it has actually collected as part of its uncollectible expense in its next base rate case when it agrees to share with its customers the losses or gains associated with POR program collections.~~ TO ENSURE THAT THE POR DISCOUNT RATE ACCURATELY REFLECTS ITS PROGRAM COSTS, THE NDGC SHALL TRACK ITS POR PROGRAM COSTS AND NGS basic natural gas supply COLLECTIONS EXPERIENCE. IF THE DISCOUNT RATE NO LONGER REASONABLY COMPENSATES THE NGDC FOR ITS POR PROGRAM COSTS AND COLLECTIONS EXPERIENCE, THE NGDC SHALL FILE AN UPDATE TO THE POR DISCOUNT RATE WITH THE COMMISSION.

Deleted: 9

Deleted: NDGC

~~(10) The NGDC shall track its POR program purchases and collections~~

(b) *Customer care.*

(1) An NGS shall follow Commission regulations relating to customer service including Chapter 56 (relating to standards and billing standards), §§ 62.71--62.80 (relating to customer information disclosure) and § 62.114 (relating to standards of conduct and disclosure for licensees).

(2) An NGS shall respond to customer complaints regarding rate disputes in not more than 30 days consistent with §§ 56.141, 56.151 and 62.79 (relating to dispute procedures; general rule; and complaint handling process).

(3) An NGDC shall follow 66 Pa.C.S. Chapter 14 (relating to responsible utility customer protection) and Chapter 56 when terminating service to a customer for failure to pay THE APPLICABLE NGS natural gas supply charges purchased under the POR program. An NGDC MAY TERMINATE SERVICE TO AN NGS CUSTOMER ONLY FOR THE CUSTOMER'S FAILURE TO PAY THE PORTION OF THE ACCOUNTS RECEIVABLE PURCHASED UNDER THE POR PROGRAM THAT IS COMPRISED OF CHARGES FOR BASIC NATURAL GAS SUPPLY SERVICE and applicable NGDC charges.

(4) Reconnection of service to NGS customers following termination shall be made in accordance with 66 Pa.C.S. Chapter 14 and applicable regulations in Chapter 56.

(5) An NGDC shall agree to inform all customers that service may be terminated for failure to pay NGS basic natural gas supply charges by a separate bill insert that specifically describes the policy for termination of service.

(6) An enrollment letter issued by an NGDC at the time of selection of the NGS must inform customers that service may be terminated for failure to pay BASIC NGS supply charges.

~~(c) *Satisfaction of the security requirements for licensing.* An NGS's accounts receivable may be used to satisfy in full or in part the security required for licensing as a natural gas supplier.~~

§ 62.225. Release, assignment or transfer of capacity.

(a) An NGDC holding contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or a city natural gas distribution operation, ~~may~~ 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,

Deleted: NEW OR RENEWED

Formatted: Highlight

Deleted: SHALL

Deleted: AS SET FORTH IN 66 PA. C.S. § 2204 (E).

Formatted: Highlight

(1) A release, assignment or transfer shall be made on a nondiscriminatory basis.

(2) A release, assignment or transfer shall be at the applicable contract rate for capacity or Pennsylvania supply and be subject to applicable contractual arrangements and tariffs.

(3) The amount released, assigned or transferred shall be sufficient to serve the level of the customers' requirements for which the NGDC has procured the capacity determined in accordance with the NGDC's tariff or procedures approved in its restructuring proceedings.

~~**§ 62.226. NGDC costs of competition related activities.**~~

~~(a) As part of its next annual filing under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments), an NGDC may include a proposed tariff rider to establish a nonbypassable reconcilable surcharge filed within the requirements of 66 Pa.C.S. § 1307 designed to recover the reasonable and prudently incurred costs of implementing and promoting natural gas competition within this Commonwealth.~~

~~(b) The surcharge shall be calculated annually and adjusted to account for past over- or under-collections in conjunction with the § 1307(f) process to become effective with new PGC rates.~~

~~(c) The surcharge shall be recovered on a per unit basis on each unit of commodity which is sold or transported over its distribution system without regard to the customer class of the end user.~~

~~(d) Before instituting the surcharge, an NGDC shall remove the amounts attributable to promoting retail competition from its base rates. This may be done through a 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) rate case filed at least 5 years after first seeking recovery through a 66 Pa.C.S. § 1307 nonbypassable mechanism.~~

~~(e) Until an NGDC which seeks a nonbypassable recovery of its costs of promoting retail competition files a base rate case under 66 Pa.C.S. § 1308(d), the NGDC shall eliminate the effect of recovery of these costs in base rates though the filing of a credit to its base rates equal to the amount in base rates. This may be established through the filing of a fully allocated cost of service study and a proposed tariff rider in the NGDC's proceeding under 66 Pa.C.S. § 1307(f) to establish a revenue neutral adjustment clause to credit base rates for the costs associated with promoting retail competition that are currently reflected in base rates and to recover fully those costs through a nonbypassable reconcilable surcharge. The credit and surcharge shall be adjusted at least annually through the 66 Pa.C.S. § 1307(f) process.~~

~~(f) The revenue neutral adjustment clause rider shall remain in effect until establishment of new base rates under 66 Pa.C.S. § 1308(d) which include a fully allocated cost of service study to remove these costs from base rates.~~

~~(g) The surcharge shall be subject to audit.~~

~~§ 62.227. Regulatory assessments.~~

~~(a) As part of its next annual filing under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments), an NGDC shall include a proposed tariff rider to establish a nonbypassable reconcilable surcharge filed within the requirements of 66 Pa.C.S. § 1307 designed to recover the NGDC regulatory assessment payments made under to 66 Pa.C.S. § 510 (relating to assessment for regulatory expenses upon public utilities).~~

~~(b) The surcharge shall be calculated annually and include costs associated with regulatory assessments for the Commission in 66 Pa.C.S. § 510, the Office of Consumer Advocate under section 904-A.1 of The Administrative Code of 1929 (71 P. S. § 309-4.1) regarding assessment upon public utilities, disposition, appropriation and disbursement of the assessments, and the Office of Small Business Advocate under section 6 of the Small Business Advocate Act (73 P. S. § 399.46) regarding assessment upon public utilities; disposition, appropriation and disbursement of the assessments. The NGDC shall include the following in its annual filing:~~

~~(1) Copies of its most recent annual bills for the Commission for each assessment.~~

~~(2) Copies of adjusted bills or refunds received since its prior filing.~~

~~(3) Proof of payment of each bill.~~

~~(c) The surcharge shall be recovered on a per unit basis on each unit of commodity which is sold or transported over its distribution system without regard to the customer class of the end user.~~

~~(d) The surcharge shall be adjusted annually to account for past over- or under-collections in conjunction with the § 1307(f) process to become effective with new PGC rates.~~

~~(e) Before instituting the surcharge, an NGDC shall remove the amounts attributable to the regulatory assessments from its base rates. This may be done through a 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) rate case filed at least 5 years after first seeking recovery through a 66 Pa.C.S. § 1307 nonbypassable mechanism.~~

~~(f) Until an NGDC which seeks a nonbypassable recovery of its regulatory assessments files a base rate case under 66 Pa.C.S. § 1308(d), the NGDC shall eliminate the effect of recovery of assessment payments in base rates though the filing of a credit to its base rates equal to the amount of assessment costs in base rates. This may be established through a fully allocated cost of service study and a proposed tariff rider in the NGDC's next proceeding under 66 Pa.C.S. § 1307(f) to establish a revenue neutral adjustment clause to credit base rates for the assessment costs reflected in rates and to recover fully those assessment costs through a nonbypassable reconcilable surcharge. The credit and surcharge shall be adjusted at least annually through the 66 Pa.C.S. § 1307(f) process.~~

~~(g) The revenue neutral adjustment clause rider shall remain in effect until establishment of new base rates under 66 Pa.C.S. § 1308(d) which include a fully allocated cost of service study to remove these costs from base rates.~~

Formatted: Indent: Left: 0.13"

~~(h) The surcharge shall be subject to audit.~~

Formatted: Indent: Left: 0.17", No bullets or numbering