



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

October 1, 2012

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies
Docket No. P-2011-2277868

Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies
Docket No. I-2012-2320323

Dear Secretary Chiavetta:

Enclosed please find an original copy of the Bureau of Investigation and Enforcement's (I&E) **Comments** in the above-captioned proceeding.

Copies are being served on all active parties of record. If you have any questions, please contact me at (717) 783-7998.

Sincerely,

Allison C. Kaster
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #93176

Enclosure
ACK/edc

cc: Parties of Record
Hon. Conrad A. Johnson

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Generic Investigation or Rulemaking Regarding “Gas-On-Gas” Competition Between Jurisdictional Natural Gas Distribution Companies	:	:	Docket No. P-2011-2277868
	:	:	
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	:	:	

**COMMENTS
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

By Prehearing Order dated August 31, 2012, Administrative Law Judge Elizabeth Barnes (ALJ) requested comments on the scope of the generic investigation regarding gas-on-gas competition between natural gas distribution companies (NGDC). The broad scope would allow the parties to address the merits of gas-on-gas competition as a whole and make recommendations regarding whether the practice should be permitted to continue. The narrow scope would essentially recognize that gas-on-gas competition is an acceptable practice and would focus on the ratemaking issues arising from such competition.

I. Procedural History

On December 8, 2011, the Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), Office of Small Business Advocate (OSBA), Peoples TWP LLC (Peoples TWP) and Peoples Natural Gas Company (Peoples)(collectively, Joint Petitioners) filed a Joint Petition for Generic Investigation or Rulemaking Regarding “Gas-On-Gas” Competition Between Jurisdictional Natural Gas Distribution Companies (Joint Petition).

On July 25, 2012, the Commission issued a Secretarial Letter stating that the Commission determined that the issues related to a NGDC’s flexing of distribution rates to meet the lower rates from other NGDCs and the treatment of flexed revenues for ratemaking purposes in future ratemaking proceedings should be resolved through a generic investigation. Accordingly, the Commission assigned this matter to the Office of Administrative Law Judge for disposition and resolution.

An Initial Prehearing Conference was held on August 31, 2012, during which the scope of this generic investigation was discussed. By Prehearing Order dated August 31, 2012, the ALJ found that “[t]he scope of procedure and issues is so critical to the advancement of the generic investigation that I am directing the parties to file formal comments regarding what the scope of the generic investigation should be and to specify the exact issues to be involved in a generic investigation...”

Accordingly, pursuant to the Prehearing Order, I&E files the instant comments addressing the scope of the generic investigation.

II. Comments

The Joint Petition arose from a series of settlement agreements. As demonstrated below, the Joint Petition and the various settlements envisioned that the investigation would be broad in scope.

Specifically, the Peoples settlement, docketed at R-2010-2201702, provides that:

OTS, OCA, OSBA, and Peoples agree to request, by separate filing made within 60 days of the Commission's approval of this Settlement, that the Commission (a) initiate within six months of such request a generic investigation or rulemaking to address whether NGDC to NGDC competition should be permitted to continue and, if permitted to continue, under what circumstances it will be considered appropriate, and (b) proceed expeditiously to conclude such investigation or rulemaking. Other parties reserve the right to challenge the necessity for any such investigation or rulemaking.

Additionally, Columbia Gas of Pennsylvania, Inc.'s base rate settlement, at Docket No. R-2010-2215623, states:

Columbia agrees to join with OTS, OCA and/or OSBA in a request that the Commission initiate a generic investigation or rulemaking to address whether flex discounts solely as a result of competition from other NGDCs should be permitted to continue and, if permitted to continue, under what circumstances it will be considered appropriate. Other Parties reserve the right to challenge the necessity for any such investigation or rulemaking.

Similarly, in the acquisition of T.W. Phillips Gas and Oil Co. by a subsidiary of SteelRiver Infrastructure Fund North America LP, docketed at A-2010-2210326, the Settlement provides:

T. W. Phillips agrees to join with OTS, OCA, and OSBA, in a request to be made by separate filing, that the Commission (a) initiate within six months of such request a generic investigation or rulemaking to address whether Natural Gas Distribution Company

(“NGDC”) to NGDC competition should be permitted to continue and, if permitted to continue, under what circumstances it will be considered appropriate, and (b) proceed expeditiously to conclude such investigation or rulemaking. Other Signatory Parties and any other party not a signatory to the Settlement reserve the right to challenge the necessity for any such investigation or rulemaking.

As a result of these settlements, the Joint Petitioners filed the instant petition requesting that the Commission initiate an investigation to address the practice of flexing rates among NGDCs with overlapping service territories. The Joint Petition states as follows:

In accordance with the Settlement of Peoples’ base rate case, the Joint Petitioners request that the Commission initiate a generic investigation or rulemaking with regard to competition among NGDCs, flexing of distribution rates to meet such competition, and treatment of flexed revenues for ratemaking purposes in future ratemaking proceedings.

As stated above, the generic investigation was to broadly address the issue of gas-on-gas competition among NGDCs and was also designed to include the narrower ratemaking issues arising from that competition. Accordingly, it is clear that the Joint Petition and the various settlement documents envisioned a broad scope of the generic investigation.

However, the Commission’s Secretarial Letter initiating this generic investigation focused more on the ratemaking impact of flexing rates rather than on a broad discussion of gas-on-gas competition in general:

We also agree with Joint Petitioners that the issues related to a NGDC’s flexing of distribution rates to meet the lower rates from other NGDCs and the treatment of flexed revenues for ratemaking purposes in future ratemaking proceedings should be resolved through a generic investigation.

Although the Secretarial Letter does not expressly state that practice of discounting rates due to competition from NGDCs should be addressed in this proceeding, it does state that “the issues”

related to flexing should be resolved in this proceeding. One can read that broadly to mean that the practice of flexing and whether it should be permitted to continue can be addressed. At a minimum, it is clear that the Commission did not expressly prohibit the parties from addressing the broad issue of whether flexing should be permitted to continue in this investigation.

I&E intends to focus on the ratemaking issues surrounding the practice of flexing rates. In particular, I&E will focus on (1) when rates are discounted; (2) how rates are discounted; and, (3) how revenues associated with the rate discounts are treated. Although I&E does not intend to address the broader issues at this juncture, I&E does not oppose a broad scope of this proceeding because that is consistent with the settlement agreements and Joint Petition cited above and does not contravene the Commission's Secretarial Letter.

Respectfully submitted,



Allison C. Kaster
Prosecutor
PA Attorney ID #93176

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Dated: October 1, 2012

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies	:	:	Docket No. P-2011-2277868
Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies	:	:	Docket No. I-2012-2320323

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Comments** dated October 1, 2012, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of § 1.54 (relating to service by a party):

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