

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

September 21, 2017

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

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 the Office of Consumer Advocate's Reply Comments in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Darryl A. Lawrence", written over a horizontal line.

Darryl A. Lawrence
Senior Assistant Consumer Advocate
PA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org

Enclosures

cc: Hon. Elizabeth H. Barnes, ALJ
Certificate of Service

*238578

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document,
the Office of Consumer Advocate's Reply Comments, upon parties of record in this proceeding
in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant),
in the manner and upon the persons listed below:

Dated this 21st day of September 2017.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Allison C. Kaster, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Bldg.
P.O. Box 3265
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Elizabeth Rose Triscari, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Bldg.
300 North Second Street
Harrisburg, PA 17101

Maureen Geary Krowicki, Esquire
National Fuel Gas Distribution Corp.
P.O. Box 2081
1100 State Street
Erie, PA 16512

Mark C. Morrow, Esquire
UGI Corp.
460 North Gulph Road
King of Prussia, PA 19406

Theodore J. Gallagher, Esquire
NiSource Corporate Services Co.
121 Champion Way - #100
Canonsburg, PA 15317

William H. Roberts, Esquire
Jennifer L. Petrisek, Esquire
Peoples Natural Gas Co., LLC
375 North Shore Drive - #600
Pittsburgh, PA 15212

Charis Mincavage, Esquire
Teresa K. Schmittberger, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108

William E. Lehman, Esquire
Thomas J. Sniscak, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
jlcrist@aol.com **(E-Mail only)**

Dawn Lindner
Peoples TWP, LLC
205 N. Main Street
Butler, PA 16001

David W. Gray, Esquire
General Counsel
Equitable Gas Company, LLC
225 North Shore Drive
Pittsburgh, PA 15212-5861

Michael S. Swerling, Esquire
Exelon Business Services Co.
2301 Market Street, S23-1
Philadelphia, PA 19101-8699

Donna M.J. Clark, Esquire **(E-Mail Only)**
Energy Assoc. of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17101


Amy Neufeld, Esquire
500 North Third Street
Suite 800
Harrisburg, PA 17110

Kevin J. Moody, Esquire
Pennsylvania Independent Oil &
Gas Association
212 Locust St., Suite 300
Harrisburg, PA 17101-1510

Tishekia E. Williams, Esquire
Duquesne Light Company
411 Seventh Avenue
Pittsburgh, PA 15219

David P. Zambito, Esquire
Cozen O'Conner
17 North Second St., Suite 1410
Harrisburg, PA 17101

Bruce V. Miller, Esquire
Cullen & Dykman LLP
100 Quentin Roosevelt Blvd.
Garden City, NY 11530



Darryl A. Lawrence
Senior Assistant Consumer Advocate
PA Attorney I.D. # 93682
Email: DLawrence@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
Email: ABeatty@paoca.org

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
*238577

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Petition for Generic Investigation or	:	
Rulemaking Regarding "Gas-On-Gas"	:	
Competition Between Jurisdictional Natural	:	P-2011-2277868
Gas Distribution Companies	:	
	:	
	:	
Generic Investigation Regarding Gas-On-Gas	:	
Competition Between Jurisdictional Natural	:	I-2012-2320323
Gas Distribution Companies	:	

REPLY COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

Darryl Lawrence
PA Attorney I.D. # 93682
E-mail: DLawrence@paoca.org
Senior Assistant Consumer Advocate

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

DATED: September 21, 2017

I. INTRODUCTION

On May 4, 2017, the Commission issued its Opinion and Order (Order) in this matter. The Order provided that gas-on-gas competition should be allowed to continue, in a limited fashion. Specifically, the gas-on-gas discount rates would have a price floor established that would be the lowest tariff rate available to a gas-on-gas customer. Further, the affected NGDCs (Peoples, Peoples-Equitable, Peoples TWP and Columbia) were directed to develop proposed tariff provisions in order for a uniform tariff to be applied across these companies for the provision of gas-on-gas service. Order at 51.

The Order also sought comments as to a series of questions that the Commission seeks further information on relating to the uniform tariff provisions. Order at 55-57. Specifically, the Commission sought responses to the following questions:

- Which customer classes should be offered gas-on-gas flex rates?
- Should uniform minimum consumption thresholds be established?
- Should new customers locating in overlapping service areas be offered gas-on-gas flex rates or should these rates be limited to existing customers being served under gas-on-gas flex rate contracts?
- What should be the criteria and associated documentation for customers to demonstrate that they are capable of receiving service from another NGDC?
- Should there be a limit on the duration of contracts between gas-on-gas flex rate customers and NGDCs?

Order at 55-57. The Order further specified that comments would be due in 90 days from the Order entry date, or on or before August 2, 2017 and reply comments would be due on or before August 22, 2017.

On August 2, 2017, comments were filed by Columbia Gas of Pennsylvania, Inc. (Columbia), Peoples Natural Gas Company, LLC, Peoples Equitable division and Peoples TWP, LLC (collectively, Peoples), the Industrial Energy Consumers of Pennsylvania (IECPA), the Office of Small Business Advocate (OSBA) and the Office of Consumer Advocate (OCA), (collectively, Commenting Parties). Subsequent to the filing of Comments, the Commenting Parties initiated a series of discussions as to the various responses that were submitted to the Commission's questions.

After initial discussions, it was agreed that the Commenting Parties might be able to come to a uniform position on many of the questions if some additional time was allotted for further discussions. Accordingly, on August 15, 2017, Peoples contacted Commission Staff and requested a 30-day extension for all parties to file reply comments. A Secretarial Letter was issued on August 17, 2017, approving that request and setting a new date for reply comments as on or before September 21, 2017.

After being granted this additional time, the Commenting Parties held a series of discussions. As a result of those discussions, the Commenting Parties have agreed to provide uniform responses to the questions posed by the Commission in its Order. These uniform responses and clarifying language are intended as an aid to the Commission in reaching its final determinations in this matter, and are attached hereto as Appendix A. In addition, the Commenting Parties are also recommending that a working group be established in order to arrive at a uniform method for establishing the "Lowest Applicable Tariff Rate." Further, the Commenting parties have been unable to reach any consensus on one particular issue as to the provision of non-discounted service to the customer of a competing NGDC, and seek the

Commission's guidance as to the resolution of this issue. In accord with the Secretarial Letter, the OCA now submits these Reply Comments.

II. REPLY COMMENTS

A. Response To The Commission Questions.

- Which customer classes should be offered gas-on-gas flex rates?

Only the non-residential customer classes should be considered for future flex rate offerings. This position is consistent with the OCA's Comments of August 2, 2017.

- Should uniform minimum consumption thresholds be established?

The OCA sees no reason to establish minimum consumption levels at this time. Consistent with its Comments here, the OCA submits that the Commission's Order provides a reasonable path forward to deal with the significantly reduced number of gas-on-gas customers without causing unreasonable economic harm to non-participating ratepayers. As such, the establishment of minimum consumption levels would appear unnecessary and would also add another layer of complexity without any attendant benefits.

- Should new customers locating in overlapping service areas be offered gas-on-gas flex rates or should these rates be limited to existing customers being served under gas-on-gas flex rate contracts?

New customers starting service in a location where connection to more than one NGDC is possible should have the opportunity to pick their preferred distribution company and be offered a gas-on-gas discount rate within the confines of the language set out in Appendix A on this issue. Certain existing customers should also be eligible to receive a gas-on-gas discount offer from a competing NGDC, again, limited by the language in Appendix A. It was the intent of the Commenting Parties in the uniform response here to limit or eliminate those scenarios

where duplicative infrastructure would be necessary in order to serve a new or existing customer, and that such duplicative investment, if made, would have to be cost justified.

- What should be the criteria and associated documentation for customers to demonstrate that they are capable of receiving service from another NGDC?

Customers should have the obligation to demonstrate that they are eligible to participate in gas-on-gas competition. The language in Appendix A requires a substantial, verified showing by the customer that they are eligible to receive a gas-on-gas discount offer. The language there also establishes that the details of such transactions will be available to other parties, as may be needed, consistent with reasonable non-disclosure and protective order practices.

- Should there be a limit on the duration of contracts between gas-on-gas flex rate customers and NGDCs?

There is a concern here that if the “floor” price is being established as the lowest tariffed rate available to that customer from the potential NGDCs that the customer could physically connect to, such tariffed rates will inevitably change as general base rate cases are decided. In the OCA’s view, the main point here is that long-term contracts should not be used as a way to avoid the prevailing market floor price. The OCA submits that the suggested language in Appendix A reasonably addresses this situation, as contracts would need to be reviewed at two-year intervals to ensure that the contract continues to represent the then-prevailing “lowest applicable tariffed rate.”

As to existing contracts, the Order provides that NGDCs entering into long-term contracts are proceeding at their own risk as the gas-on-gas discount rates provided in such contracts may be subject to disallowance in the NGDCs’ future rate cases. Order at 57-59.

The OCA submits that the suggested language in Appendix A should prove useful to the Commission as it reaches its ultimate determinations on these important issues.

B. Establishment Of A Working Group.

The Commenting Parties had numerous discussions as to the establishment of the “lowest applicable tariffed rate.” These discussions also included the establishment of uniform tariff provisions, which, by necessity, would require uniformity as to how the lowest applicable tariffed rate would be arrived at. After much deliberation, the Commenting Parties agreed that a working group as outlined in Appendix A may be the most efficient forum for establishing the methodology to be used to arrive at this “floor” price and also to establish the uniform tariff provisions. As set out, the working group would have a pre-defined goal and timeframe to accomplish these tasks. The OCA intends to actively participate if the Commission deems that such a working group approach is reasonable.

C. The Provision Of Service To A Potential Customer At Full Tariff Rates.

As Appendix A provides:

The Commenting Parties could not reach consensus on issues related to an NGDC’s extension of facilities and provision of service at non-discounted tariffed rates to an existing G-O-G Customer of a Competing NGDC. Specifically, the Commenting Parties could not reach consensus on (a) whether such service is properly considered in the context of the instant proceeding and (b) if such service is properly considered in the context of the instant proceeding, the circumstances under which such service should be allowed. The Commenting Parties will respond to these issues through their individual replies to comments.

The particular scenario that the Commenting Parties wrestled with during their discussions was as follows. A current gas-on-gas customer of Columbia decides to switch to Peoples.¹ This customer currently has no facilities in place to connect to Peoples, but is in an overlapping area of both NGDCs and could connect to Peoples under Peoples existing tariff

¹ This hypothetical applies no matter who the customer’s current competing NGDC is.

provisions regarding main extensions. Does the non-incumbent NGDC have a duty, and or the right, to serve that customer at its full tariff rate? In the OCA's view, the answer is no.

One of the OCA's key goals in this matter was to eliminate, or at least substantially reduce the continued investment in duplicative facilities at the ultimate expense of captive ratepayers. One could argue that if the prospective customer here, or the new NGDC's shareholders pay the full freight to connect this customer, where is the harm? Unfortunately, Columbia would now have plant in the ground (and presumably in rate base) that is no longer used and useful. The Order specifically addressed such situations, as follows:

Nevertheless, to the extent that multiple NGDC facilities exist in the future to serve the remaining gas-on-gas customers, the NGDCs still will have the burden of proving that such facilities are used and useful, should remain in the NGDC's rate base, and that the associated costs should be recovered from ratepayers.

Order at 55. To allow the above scenario could reasonably lead to a disallowance of Columbia's investment to serve that customer in its next rate case. Perhaps the fairest way to proceed would be to include the current book value of Columbia's assets used to serve that customer and include those dollars in the calculation as to the provision of service by Peoples. That said, this procedure would again add a layer of complexity to a situation that is certainly not in need of any further challenges.

The OCA submits that the uniform tariff provisions, when they are created and approved, should control the landscape as to how gas-on-gas customers in overlapping service territories are provided service and what rates they may be offered. In the scenario at issue here, the reasonable resolution would be to disallow the continued construction of duplicative facilities.

III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide Reply Comments on this important matter. The OCA looks forward to a continuing discussion with the

parties and the Commission as it reaches its ultimate resolution of all issues raised by the Investigation.

Respectfully Submitted,



Darryl Lawrence
PA Attorney I.D. #93682
E-Mail: DLawrence@paoca.org
Senior Assistant Consumer Advocate

Counsel for:
Acting Consumer Advocate
Tanya J. McCloskey

Office of Consumer Advocate
555 Walnut Street, 5th Floor Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Facsimile: (717) 783-7152

Dated: September 21, 2017

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APPENDIX A

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

CONSENSUS POSITIONS OF COMMENTING PARTIES

DEFINED TERMS

“**Commission**”: Pennsylvania Public Utility Commission

“**Commenting Parties**”: Columbia Gas of Pennsylvania, Industrial Energy Consumers of Pennsylvania, Office of Consumer Advocate, Office of Small Business Advocate, Peoples Natural Gas Company LLC, and Peoples Gas Company LLC

“**Competing NGDC**”: An NGDC that has overlapping service territory with another NGDC and may offer a G-O-G Flex Rate

“**G-O-G**”: Gas-on-Gas competition between Competing NGDCs through the offer of a G-O-G Flex Rate

“**G-O-G Contract**”: A contract between a Competing NGDC and a G-O-G Customer pursuant to which the G-O-G Customer receives a G-O-G Flex Rate

“**G-O-G Customer**”: A customer of a Competing NGDC who is eligible for a G-O-G Flex Rate

“**G-O-G Negotiated Adjustment**”: An adjustment to a Competing NGDC’s tariffed rate that is provided to a G-O-G Customer pursuant to G-O-G Contract

“**G-O-G Flex Rate**”: The flex rate, provided to a G-O-G Customer, resulting from a G-O-G Negotiated Adjustment

“**Law Bureau**”: Law Bureau of the Commission

“**May 4, 2017 Order**”: Commission’s Order entered at the above-referenced dockets on May 4, 2017

“**Natural Gas Distribution Company**”: A natural gas distribution company regulated by the Commission

“**TUS**”: Bureau of Technical Utility Services of the Commission

COMMISSION QUESTIONS	CONSENSUS POSITIONS OF COMMENTING PARTIES
Which customer classes should be offered gas-on-gas flex rates?	G-O-G Flex Rates should be limited to non-residential customer classes.
Should uniform minimum consumption thresholds be established?	No. Minimum consumption thresholds may deprive some existing, and potentially future qualifying, G-O-G Customers of G-O-G Flex Rate options and create unnecessary complexity.
Should new customers in overlapping service territories be offered gas-on-gas flex rates or should these rates be limited to existing customers being served under gas-on-gas flex rate contracts?	<p>Yes, both new customers locating in overlapping service areas and certain existing customers should be eligible for G-O-G Flex Rates.</p> <p>A G-O-G Negotiated Adjustment may be offered to an existing customer of the Competing NGDC providing service where the customer is currently receiving a G-O-G Flex Rate.</p> <p>A G-O-G Negotiated Adjustment may be offered to an existing customer of a Competing NGDC where such customer was formerly served at that service location by the Competing NGDC offering service.</p> <p>A G-O-G Negotiated Adjustment may be offered to a potential, new customer associated with new development. This provision allows for negotiated rates between Competing NGDCs for the load of a new customer but, once the successful Competing NGDC expends capital and extends facilities to the customer, there shall be no further competition between the Competing NGDCs for that customer where the result would be the unnecessary duplication of facilities. Any new service investment for a new G-O-G Customer must be justified and supported by actual G-O-G Flex Rate revenues using the methods approved for line and main extensions of that particular Competing NGDC.</p>
What should be the criteria and associated documentation for customers to demonstrate they are capable of receiving service from another NGDC?	A G-O-G Flex Rate must be supported by a sworn G-O-G Customer affidavit. An existing G-O-G Customer's affidavit must attest that the G-O-G Customer meets one or more of the eligibility criteria listed above. A new G-O-G Customer's affidavit must attest that (i) the G-O-G Customer has been offered service from a Competing NGDC with a lower tariffed rate and (ii) the Competing NGDC is physically able to

	<p>connect the G-O-G Customer and has sufficient capacity to serve. All affidavits must include all relevant terms, conditions, rates, and customer contributions and advances associated with the competitive service offering. The G-O-G Customer affidavit shall be treated as confidential and disclosed in a Commission proceeding only pursuant to a protective agreement or order.</p> <p>A Competing NGDC cannot assert confidentiality of its offer and thereby prevent a current or prospective G-O-G Customer from disclosing the terms of the offer to another Competing NGDC. A Competing NGDC cannot disclose its offer to another Competing NGDC without the consent of the current or prospective G-O-G customer. A Competing NGDC, to which the offer of another Competing NGDC has been disclosed, shall preserve the confidentiality of such offer and shall use it for no purpose other than developing a competing offer and in a Commission or other legal proceeding subject to a protective agreement or order.</p>
<p>Should there be a limit on duration of gas-on-gas flex rate contracts?</p>	<p>Current G-O-G Contracts may continue in effect in accordance with the contract terms; however, Competing NGDCs have been placed on notice by the May 4, 2017 Order that they may not be able to recover any G-O-G Flex Rate that is below the lowest tariffed rate of a Competing NGDC for contracts that extend beyond December 31, 2018.</p> <p>There should be no limitation on the duration or extension of a G-O-G Contract entered into after the entry of a final order in this proceeding; however, such a G-O-G Contract shall be updated for consistency with the lowest tariffed rate of a Competing NGDC beginning on October 1, 2018 and every two-year anniversary thereafter. The October 1, 2018 date was agreed on by the Commenting Parties as a reasonable start date fitting in the schedule of regulatory filings. This requirement is consistent with the Commission's competing policies of allowing G-O-G to continue with limitations on Negotiated Adjustments and of not micro-managing contractual matters. It also allows a Competing NGDC and a G-O-G Customer to negotiate a G-O-G Contract that provides long-term certainty for both. The G-O-G Customer is able to choose a higher-tariff-rate Competing NGDC for other reasons (such as quality of service, supply costs, etc.) without fear of being bound to a higher tariffed rate at the end of a short G-O-G Contract term. A Competing NGDC is able to negotiate a duration that allows recovery of capital investment required to provide service.</p>

<p>Determination of “Lowest Applicable Tariff Rate” / Uniform G-O-G Tariff Provisions</p>	<p>Due to the complexity of the issues, a collaborative -- to be conducted with the assistance of TUS and Law Bureau -- should be established for the limited purposes of determining: (a) the appropriate methodology to calculate the lowest applicable tariff rate available to a G-O-G Customer; and, (b) uniform G-O-G tariff provisions to be simultaneously adopted by Competing NGDCs. The collaborative shall conclude its work within 90 days following entry of a Commission final order on the five issues raised on p. 55 of the May 4, 2017 Order. The results of the collaborative, together with recommendations, shall be reported to the Commission by TUS or Law Bureau in the form of a Tentative Order on which interested parties will have a reasonable opportunity to comment.</p>
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Note: The Commenting Parties could not reach consensus on issues related to an NGDC’s extension of facilities and provision of service at standard tariffed rates to an existing G-O-G Customer of a Competing NGDC. Specifically, the Commenting Parties could not reach consensus on (a) whether such service is properly considered in the context of the instant proceeding and (b) if such service is properly considered in the context of the instant proceeding, the circumstances under which such service should be allowed. The Commenting Parties will respond to these issues through their individual replies to comments.