

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b>
(1) Agency  Pennsylvania Public Utility Commission		<b>RECEIVED</b>  2000 MAY 17 PM 2: 25  INDEPENDENT REGULATORY REVIEW COMMISSION  <b>IRRC Number:</b> 2080
(2) I.D. Number (Governor*s Office Use)  L-00990145/57-211		
(3) Short Title  Final Rulemaking Re Establishing Procedures to Ensure Customer Consent to a Change of Natural Gas Supplier		
(4) PA Code Cite  52 Pa. Code Sections 59.91-59.99	(5) Agency Contacts & Telephone Numbers  Primary Contact: Louis Sauers 783-6688  Secondary Contact: Terrence J. Buda 787-5755	
(6) Type of Rulemaking (check one)  <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached?  <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language.  <p>On June 22, 1999, Governor Tom Ridge signed into law the "Natural Gas Customer Choice and Competition Act" (the Act). The Act revised the Public Utility Code, 66 Pa. C.S. §§101, et seq., by inter alia, adding Chapter 22, relating to restructuring of the gas utility industry. The purpose of the law is to permit customers to buy natural gas supply service from their choice of gas suppliers. Section 2206(b) of the Act requires that "[t]he Commission shall, by order or regulation, establish procedures to ensure that a natural gas distribution company does not change a retail gas customer's natural gas supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier." The purpose of the regulation is to implement and codify the provisions of the Act.</p>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  66 Pa. C.S. Sections 501 and 2206(b)		

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

See answer to No. 8, above.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation implements new procedures in recognition of the effect of newly enacted Chapter 22 of the Natural Gas Customer Choice and Competition Act. (See answer to No. 8)

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

None

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All natural gas customers could effectively benefit from the regulation.

### **Regulatory Analysis Form**

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

None

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Natural gas distribution companies and suppliers.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Pennsylvania Gas Association, Office of Consumer Advocate, Natural Fuel Resources, T.W. Phillips Gas and Oil Company, Columbia Gas of Pennsylvania, United Gas Management, PG Energy Inc., and the Peoples Natural Gas Company.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Although the regulations may increase the regulatory costs of the companies complying with its provisions, these costs are not considered to be significant.

### **Regulatory Analysis Form**

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

N/A

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The regulation is not expected to impose significant costs on the Commission.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

Any costs to the Commission should be de minimus.

### Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

N/A

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

N/A

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

No.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

### **Regulatory Analysis Form**

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

This regulation will be reviewed on an ongoing basis.



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(Pursuant to Commonwealth Documents Law)

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INDEPENDENT LEGISLATIVE  
REVIEW COMMISSION

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Copy below is hereby approved as to form and legality. Attorney General.

BY \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

\_\_\_\_\_  
DATE OF APPROVAL

☐ Check if applicable  
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00990145/57-211

DATE OF ADOPTION May 11, 2000

BY James J. McNulty  
James J. McNulty

TITLE ( SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY \_\_\_\_\_  
Bohdan R. Pankiw  
Chief Counsel

5-11-00  
DATE OF APPROVAL

☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00990145/57-211  
Final Rulemaking  
Establishing Procedures to Ensure Customer  
Consent to a Change of Natural Gas Supplier  
52 Pa. Code, Chapter 59

The Pennsylvania Public Utility Commission on May 11, 2000, adopted a final rulemaking order promulgating regulations to implement and codify Section 2206(b) of the Natural Gas Choice and Competition Act which requires the establishment of procedures to ensure that natural gas suppliers do not change a customer's gas supplier without direct oral confirmation from the customer of record or written evidence of the customer's consent to a change of supplier. The contact persons are Louis Sauers, Bureau of Consumer Services, 783-6688 and Terrence J. Buda, Law Bureau, 787-5755.

## **EXECUTIVE SUMMARY**

**L-00990145/57-211**

**Final Rulemaking**

**Establishing Procedures to Ensure Customer  
Consent to a Change of Natural Gas Supplier**

**52 Pa. Code, Chapter 59**

On June 22, 1999, Governor Tom Ridge signed into law the “Natural Gas Customer Choice and Competition Act” (the “Act”). The Act revised the Public Utility Code, 66 Pa. C.S. §§101, et seq., by, inter alia, adding Chapter 22, relating to restructuring of the gas utility industry. The purpose of the law is to permit customers to buy natural gas supply service from their choice of gas suppliers.

Section 2206(b) of the Act requires that “[t]he Commission shall, by order or regulation, establish procedures to ensure that a natural gas distribution company does not change a retail gas customer’s natural gas supplier without direct oral confirmation from the customer of record or written evidence of the customer’s consent to a change of supplier.” The purpose of the regulation is to implement and codify this provision of the Act. The contact persons are Louis Sauers, (717) 783-6688 and Terrence J. Buda, (717) 787-5755.

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held May 11, 2000

**Commissioners Present:**

John M. Quain, Chairman  
Robert K. Bloom, Vice Chairman  
Nora Mead Brownell  
Aaron Wilson, Jr.  
Terrance J. Fitzpatrick

Rulemaking Re: Establishing  
Procedures to Ensure Customer  
Consent to a Change  
of Natural Gas Supplier

Docket Number  
L-00990145

**FINAL RULEMAKING ORDER**

**BY THE COMMISSION:**

At public meeting of November 4, 1999, the Pennsylvania Public Utility Commission (Commission) issued an order adopting and directing publication of proposed regulations to ensure customer consent to a change of natural gas suppliers. The proposed regulations are part of the implementation duties performed by the Commission under the Natural Gas Choice and Competition Act (Act). Signed into law on June 22, 1999 by Governor Tom Ridge, the Act revised

the Public Utility Code, 66 Pa. C.S. §§101, et seq., by, inter alia, adding Chapter 22 relating to restructuring of the natural gas industry. The Commission is the agency charged with implementing the Act. Section 2206(b) of the Act states that “[t]he Commission shall, by order or regulation, establish procedures to ensure that a natural gas distribution company does not change a retail gas customer’s natural gas supplier without direct oral confirmation from the customer of record or written evidence of the customer’s consent to a change of supplier.”

On December 1, 1999, the Office of Attorney General issued its approval of the proposed regulations as to form and legality. On December 21, 1999, the Commission delivered copies of the proposed rulemaking to the Chairman of the House Committee on Consumer Affairs, the Chairman of the Senate Committee on Consumer Protection and Professional Licensure, the Independent Regulatory Review Commission (IRRC) and to the Legislative Reference Bureau. The proposed regulations were published for comment in the Pennsylvania Bulletin, January 1, 2000, at 30 Pa.B. 37 and a 30-day comment period set. The Commission also posted the order on the Commission’s Internet website.

Comments were filed by the Pennsylvania Gas Association (PGA) on behalf of its member companies, the Office of Consumer Advocate (OCA), the Peoples Natural Gas Company (Peoples), the Consumer Advisory Council of the Public Utility Commission (CAC), and the Independent Regulatory Review Commission

(IRRC). We have considered all comments, and thank the parties for their suggestions on developing final regulations.

The instant order presents a section-by-section summary of comments and response. The final regulations, as revised pursuant to the discussion in the instant order, appear in Annex A of this order.

#### **§59.91. Definitions.**

IRRC expresses several concerns relative to the proposed definition of the term “Customer.” IRRC believes that the phrase “a service account exists with either a [Natural Gas Distribution Company] NGDC or a [Natural Gas Supplier] NGS” is unclear since a typical residential customer may be listed with both the NGDC and NGS. Given this possibility of two service accounts, IRRC states it is unclear which service account would be controlling for other provisions proposed in the regulations, such as §59.95 (Persons authorized to act on behalf of a customer). IRRC also believes the reference to §§59.92 – 59.99 is unnecessary and recommends the reference be limited to §59.95.

#### **Response**

With respect to IRRC’s comments, the proposed definition of “Customer” reflects, in part, a recommendation made by PG Energy in comments to the Tentative Order establishing interim guidelines pending completion of the instant rulemaking. In its comments to the Tentative Order that the Commission issued on

August 27, 1999, PG Energy recommended the definition of "Customer" be limited to the scope of the interim guidelines. We agreed and proposed a definition of "Customer" that reflected PG Energy's recommendation. In light of IRRC's comments, however, it is evident that more clarity is needed in the definition of this term. We have, therefore, revised the definition to specifically reference the definition of "Retail gas customer" at Section 2202 of the Act. We will, however, retain the portion of the definition that limits its scope to the instant regulations. Moreover, the revised definition clarifies that, for the purpose of application of the instant regulations, the term "Customer" includes all persons identified by the NGDC ratepayer of record, pursuant to §59.95, as authorized to act on behalf of the NGDC ratepayer in changing the supplier for the account. The revised definition reads:

*Customer— A retail gas customer as defined by Section 2202 of the Natural Gas Choice and Competition Act, 66 Pa. C.S. §2202. The term includes all persons identified by the Natural Gas Distribution Company (NGDC) ratepayer of record, pursuant to §59.95, as authorized to act on behalf of the NGDC ratepayer of record in changing the Natural Gas Supplier (NGS) for the account.*

**§59.93. Customer Contacts with the NGS.**

Peoples reiterates a suggestion it made in comments to the Tentative Order that the Commission modify §59.93(a)(1) to permit NGSs to "batch" requests for change of supplier, and permit NGSs to submit them less frequently than daily. To

address the Commission's concern that this practice might unnecessarily delay some customers' supplier changes, Peoples recommends that weekly or monthly submissions of requests be permitted "so long as the actual change of supplier for the customer's account occurs at the same time it would have happened if the information was relayed to the natural gas distribution company no later than the next day." Peoples contends this added condition will achieve the same result as §59.93(a)(1), i.e., the customer's supplier will be changed at the beginning of the first feasible billing period following the 10-day waiting period. Since this modification reduces administrative work for both NGDCs and NGSs without adversely delaying a customer's supplier change, Peoples asks the Commission to reevaluate its position regarding modification of this provision.

The OCA suggests including additional specificity regarding third party verification without establishing regulations that may hinder the development of a competitive market. The OCA believes specific guidelines would aid those natural gas suppliers who decide to implement third party verification practices. The OCA suggests that a third party verifier should be completely independent of the provider that seeks to initiate service, and operate from facilities separate from those of the provider seeking to supply service. Additionally, the OCA recommends that a third party verifier should not receive compensation or commission of any kind based upon the number of confirmed sales. Finally, the OCA suggests that a third party verifier not be permitted to use any data or

information for other commercial or marketing purposes, and should be required to maintain the confidentiality of the information.

IRRC recommends that the Commission define the term “data elements” found at §59.93(a)(1) and list some examples in the provision of the data elements required to verify a request to change supplier. Regarding the confirmation letter required at §59.93(a)(2), IRRC recommends that the Commission clarify in the regulation whether or not the NGDC is required to provide this confirmation notice to all persons who have authority to initiate a change of NGS.

#### **Response**

With respect to Peoples’ recommendation to modify §59.93(a)(1), we decline to make the requested change at this time. While the language proposed by Peoples appears to address our concern that “batching” might unnecessarily delay some supplier selections, it apparently is premised on the understanding that all NGDC meter reading schedules can be made available to all NGSs. Our experience to date with electric choice indicates this may not be the case. In electric choice, the Commission found it necessary to issue a Secretarial letter dated February 23, 2000 (Re: Transmittal of Future Customer Selection; Docket No. P-00991673) in which the Commission notified all Electric Distribution Companies (EDCs) and Electric Generation Suppliers (EGSs) of the Commission’s desire to address the availability of EDC schedules of meter read dates in all service territories. EDC meter reading schedules are necessary to



develop a long-term solution for delayed EGS transmittals of future customer selections. An example of a delayed EGS transmittal would be an EGS contracting with a customer today for service to commence in six months, and holding the enrollment transaction to the EDC until the appropriate meter reading so service could begin on the sixth month. These EGS transmittal delays reflect an exception granted by the Commission at Docket No. P-00991673 to the general rule at 52 Pa. Code §57.173(a)(1) requiring an EGS to notify the EDC of the customer's selection by the end of the next business day. This electric rule at §57.173(a)(1) corresponds with the proposed rule at §59.93(a)(1).

We believe the electric choice issues involving transmittal delays and availability of meter reading schedules are pertinent to the issue of "batching." If NGDC meter reading schedules are not available, an NGS may be unsure when to submit a selection to guarantee that it is not delayed due to "batching." Moreover, NGDCs sometimes have to alter meter read dates. This raises the concern that an NGS, unaware of a change in NGDC meter read dates, may inadvertently transmit a "batch" selection too late to have some of the customer accounts in the batch processed as timely as they would have been had the NGS transmitted the selections as currently proposed in §59.93(a)(1). For some customers, the delay could mean a month of lost savings.

While we decline to alter the general rule at §59.93(a)(1) at this time to allow "batching" of supplier selections, we wish to emphasize that we will continue to

explore viable electronic data interchange (EDI) enhancements with all parties. Our willingness to revisit this issue is evidenced by the previously noted limited waiver we recently granted to electric generation suppliers regarding the corresponding requirement at 52 Pa. Code §57.173(a)(1). We suggest that an appropriate time to revisit this issue would be after the standard EDI transactions between NGDCs and NGSs are designed, tested and in operation, and upon determining that NGSs are able to obtain access to NGDC meter reading schedules.

In regard to the OCA's suggestion to include third party verification guidelines in the instant regulations, we agree that the substance of the guidelines have merit and encourage NGSs to voluntarily incorporate them in their verification practices. However, we disagree that the proper place for these guidelines is in the instant regulations and therefore decline to include them with the instant regulations.

With respect to IRRC's recommendation that the Commission define the term "data elements" found at §59.93(a)(1), we accept the recommendation and have added a definition of the term at §59.91. The term "Data element" will be defined as, "One or more characters that represent numeric or alphanumeric fields of data." This definition comes from the Revised Plan for Electronic Data Exchange Standards for Electric Deregulation in the Commonwealth of Pennsylvania. Docket No. M-00960890 F0015. IRRC also suggested that the

Commission place some examples in the provision of the data elements required to verify a request to change supplier. We have therefore revised the second sentence under §59.93(a)(1) to include some examples of data elements that can be matched to verify the accuracy of information provided by the NGS. The revised sentence reads: "The NGDC shall verify the accuracy of the information provided by the NGS by matching at least two data elements such as name and account number, or address and account number, with NGDC records."

In regard to the recommendation by IRRC to clarify who the NGDC is required to send the 10-day confirmation letter to, we do not believe the NGDC should be required to send letters to all persons authorized pursuant to §59.95. Instead, we believe it is important to send the letter to the NGDC ratepayer of record, i.e., to the person under whose name the NGDC account is listed. Therefore, to clarify this practice in the regulation, we have revised the language at §59.93(a)(2) to indicate that the 10-day confirmation letter should be sent to the "NGDC ratepayer of record."

#### **§59.94. Time Frame Requirement.**

IRRC notes that §59.94 requires an authorization for a change of NGS to be "consistent with the Commission's data transfer and exchange standards." Since this phrase is not clear as to the exact standards, IRRC recommends the Commission either reference the required standards, or delete the phrase.

## **Response**

We will delete the phrase “consistent with the Commission’s data transfer and exchange standards” since, as of the date of preparation of the instant order, the EDI standards for the computer-to-computer transaction of business between a NGDC and an NGS have not been established. We note, however, some progress toward this objective in that PECO Energy Company filed on January 18, 2000 a Joint Petition for Settlement of Electronic Data Interchange Issues (Docket Nos. R-00994787 and R-00994787C0001). In this Joint Petition, numerous parties requested that the Commission permit PECO Energy to adopt for gas choice several of the same procedures used by PECO Energy in electric choice. The rationale for this request is that PECO Energy’s potential gas choice customers are dual rate customers who receive a combined electric and gas bill. Regarding EDI rules for the other NGDCs, we anticipate establishment of EDI transaction sets for all NGDCs and NGSs in the near future through a collaborative process. Therefore, we have deleted the phrase in question and will address the need for both NGDCs and NGSs to adhere to EDI protocols when EDI transaction sets are developed for gas choice.

**§59.95. Persons authorized to act on behalf of a customer.**

IRRC recommends that the Commission revise §59.95 so that it addresses the process of adding or deleting persons authorized to act on behalf of a customer.

IRRC raises the following query to illustrate the potential for confusion:

It could become confusing if the NGDC received an original document authorizing Person A to act on the customer's behalf and six months later received a second document authorizing Person B to act on the customer's behalf. In this instance, who would be authorized?

**Response**

In answer to the question posed by IRRC, we believe proper application of §59.95 would result in the NGDC adding Person B, but not deleting Person A unless so instructed by the customer. Based on our experience to date with electric choice, we do not believe it is necessary to revise the provision at §59.95 to include a specific process by which an NGDC adds or deletes persons authorized to act on behalf of a customer. The corresponding provision in the *Standards for Changing a Customer's Electricity Generation Supplier*, 52 Pa. Code §57.176, does not contain a specific process for adding or deleting persons authorized to make changes on behalf of the customer. To our knowledge, this lack of a specific process at §57.176 has not adversely affected the electric distribution companies' implementation of this provision. In our view, it is adequate under §59.95 to establish that a customer has the right to designate one or more persons to act on

his or her behalf to switch suppliers, and to direct that the NGDC obtain that authorization in writing. Therefore, we have not revised the language at §59.95.

**§59.96. Valid written authorization.**

The OCA expresses concern about §59.96 as it pertains to door-to-door sales practices. The OCA notes that even though a signature is obtained on door-to-door enrollments, the signature may not be from the customer or a person authorized to act on behalf of the customer. While the OCA states that the Commission addresses this concern, in part, by requiring the written authorization form be limited to the sole purpose of obtaining consent, the OCA recommends that the written form clearly indicate that it must be signed by the customer of record or the customer's designee.

**Response**

We decline to make the change suggested by the OCA. While we can continue to add safeguards, there is no fail-safe mechanism to prevent inappropriate actions of door-to-door marketers. In our opinion, the current proposed requirement provides adequate safeguard by limiting the document to the sole purpose of obtaining proper consent to a change of gas supplier. If an unauthorized party signs an enrollment form, the ratepayer will be alerted to this fact by the 10-day confirmation letter.

#### **§59.97. Customer Dispute Procedures.**

Both PGA and IRRC express concerns about the dispute procedures at §59.97. PGA asserts that the Proposed Rulemaking Order “does not engage PGA’s arguments on their merits.” The primary objection of PGA continues to be the requirement at §59.97(a)(1) that a NGDC must bestow automatic dispute status to contacts it receives from customers alleging unauthorized change of supplier, a practice commonly referred to as “slamming.” In PGA’s view, this requirement to automatically treat these contacts as disputes is unfair and disproportionate “given the essential fact that slamming results from actions by customers and suppliers, with utilities playing only a tangential, ministerial role.” PGA argues that NGDC obligations should be proportionate to the NGDC’s involvement in the underlying transaction. PGA maintains that every allegation of slamming arises from an interaction between a customer and a supplier. Therefore, in PGA’s view, the NGDC should be able to handle initial contacts alleging slamming as an “initial inquiry” under 52 Pa. Code Chapter 56, §56.2. If the NGDC determines that it fulfilled its duties with regard to change of supplier, PGA believes the NGDC should be able to refer the customer to the NGS that requested the NGDC to switch the customer’s supplier. Under PGA’s proposal to split §59.97(a) into two parts, the NGDC would maintain records of its “initial inquiry” investigation and response, and “such documentation shall be available for inspection by the Commission.” Dispute status would be bestowed by the NGDC only where an

NGDC's initial investigation determines the NGDC did not adequately and accurately fulfill its duties.

PGA also disagrees with the Commission's argument that automatic dispute status is justified, in part, to ensure that customer complaints against an NGDC affiliated supplier are not handled differently than disputes against non-affiliated gas suppliers. PGA argues that the PUC Order, *Binding Interim Standards of Conduct* at Docket No. M-00991249 F0004, removes this concern as a foundation for imposing automatic dispute status.

Finally, PGA's addresses the Commission's assertion in the Proposed Rulemaking Order that, since some suppliers will offer both gas and electric supply to customers, it would be counterproductive to the goal of developing competitive gas and electric markets to impose substantively different rules for essentially the same activity. PGA notes that throughout the various anti-slamming dockets, it has consistently maintained that NGDCs and EDCs should be on equal footing. PGA advocates that equal footing should be accomplished by freeing EDCs from the current requirement at 52 Pa. Code §57.173, not by extending this same requirement on NGDCs.

IRRC, noting PGA's view that the compliance requirements and costs of implementing §59.97(a)(1) as proposed are unfair and disproportionate, recommends that the PUC fully explain why the NGDCs should be required to consider customer contacts under this provision as "disputes." IRRC suggests that



the Commission provide a specific estimate of the costs imposed by this provision and an explanation of why these costs are justified. Further, IRRC recommends that the Commission consider whether a different classification, other than “disputes,” would accomplish the same objectives without imposing the same costs on the NGDC.

IRRC also comments on §59.97(b). This provision requires the Commission’s Bureau of Consumer Services (BCS) to issue an informal decision in response to receiving an informal complaint alleging supplier change without customer consent. IRRC asks the Commission to clarify whether the customer is responsible for charges during a BCS review. Additionally, IRRC suggests that the Commission provide the time frame for a BCS decision, and explain as well what the customer’s billing status is during this period.

IRRC’s final comment regarding §59.97 relates to subsection (e). IRRC states that, as proposed, this subsection allows the Commission to require an NGS to obtain written authorization from every new customer. IRRC, however, notes that §2206(b) of the Act permits both written and oral authorization. IRRC suggests that the Commission explain its authority to limit consent to written authorization.

### **Response**

We disagree with PGA’s contention that the Commission has not engaged “on their merits” PGA’s prior comments opposing the proposed requirement at

§59.97(a)(1). The Proposed Rulemaking Order reflects our careful consideration of all comments made by all parties regarding this important provision. We note that comments from other parties reflect agreement with our assessment. The CAC, for example, supports the "Rule as proposed" and states that the "Commission's discussion of the comments submitted reflect thoughtful consideration and the Commission's efforts to protect consumers without imposing excessive administrative burdens on suppliers and distribution companies." The OCA "commends the Commission on setting forth these regulations that strike a reasonable balance between preventing unauthorized switching, while still allowing for the development of competition." Thus, while PGA's prior comments relative to §59.97(a)(1) did not result in modification of this provision, we wish to assure PGA that its comments were given careful consideration.

In light of the importance of this provision, and in consideration of the most recent comments of PGA and IRRC, we will review in detail the requirement at §59.97(a)(1) to consider customer contacts under this provision as "disputes." First, we believe it is important to consider the context of the requirement at §59.97(a)(1). The interrelated provisions preceding this section set forth a process that is neither excessive nor burdensome, but nevertheless serves to minimize, if not eliminate, instances of slamming. In our opinion, it is logical to anticipate minimal application of a provision designed to address a contingency contrary to

the Act, namely, changing a customer's NGS without authorization, otherwise known as "slamming."

If the regulations at §59.92 (relating to customer contacts with the NGDC) and §59.93 (relating to customer contacts with the NGS) are applied properly, the overwhelming majority of switches will occur without giving rise to allegations of slamming. A customer will deal directly with a NGS. The NGS, once satisfied they are dealing with a person who meets the definition at §59.91 of "Customer," will receive direct oral confirmation or written authorization from the customer to change their supplier. The NGS will send the switch request to the NGDC in a timely manner. The NGDC, in turn, will send the customer a 10-day confirmation letter. This confirmation letter acts as the first safeguard in ensuring proper switches by providing the NGDC ratepayer with the opportunity to rescind an erroneous or unauthorized switch before it is processed. Clearly, the portions of the proposed regulations which set forth the process of securing customer authorization and effecting a switch virtually eliminates incidents of slamming, provided the rules are applied properly. We therefore believe it is reasonable to assume limited application of §59.97(a)(1) if one assumes "good faith" application by all parties of the other procedures to ensure customer consent to change of NGS.

To view §59.97(a)(1) alternatively, as PGA suggests, as a costly provision that will need to be applied frequently in response to a significant number of

slamming complaints presumes an intolerable level of noncompliance with the other provisions of the instant proposed regulations. Assuming, however, for the sake of argument, that PGA's concerns are realized and NGDCs receive a high number of slamming disputes, the Commission must be able to exercise proper oversight. To correct such a pattern of noncompliance, restore the integrity of §2206(b) of the Act, and eliminate a hindrance to the development of a competitive market, the Commission must be able to access all potential violations that may be part of an enforcement action. This requires that records of all slamming complaints must be complete, properly maintained, and available for Commission review. Thus, the requirement at §59.97(a)(1) is properly viewed as a safeguard to ensure adherence to the intent of §2206(b); that is, to ensure customer consent to a change of NGS. Any occurrences of frequent application by an NGDC of §59.97 should be short-lived, and therefore not likely to have a significant impact on NGDC dispute-handling costs.

With respect to IRRC's request that the Commission attempt to provide an estimate of the costs imposed by §59.97(a)(1), we acknowledge that it is difficult to determine an across-the-board cost estimate on NGDCs' handling of disputes in general, or slamming disputes in particular. Perhaps such difficulties explain, in part, the absence of any cost estimates in any of the three sets of PGA comments filed in the various anti-slamming dockets.

One difficulty in attempting to determine an across-the-board estimate on NGDCs' dispute costs, including slamming disputes, is determining costs for every action or activity involved in handling disputes. Some of these costs, such as fixed overhead costs associated with offices, salaries, telecommunication equipment, computers, customer information system, etc., cover costs for handling other types of customer contacts in addition to dispute handling. This makes it difficult to determine the portion of fixed overhead costs attributable to dispute handling actions versus the portion attributable to other actions.

These other actions respond to customer contacts about matters such as collections, outages and other emergency calls, general inquiries, applications for service, disconnection requests, etc. In some instances, an action or activity may be performed to address both a dispute as well as another action. For example, an NGDC may obtain an actual meter read at a residence to initiate a new account, and to investigate a billing dispute from the prior occupant that their final bill was not based on an actual read.

A further difficulty is that the activities and costs involved in handling disputes vary from one type of dispute to another. Some disputes, such as claims of improper credit for a payment, are addressed by an internal review of account records and, if necessary, the generation of a corrective transaction. Other disputes, such as a high bill complaint alleging a faulty meter, require expensive field or on-site visits. Moreover, the NGDC cost to perform a particular activity or

action varies from one NGDC to another. For example, the on-site visit adds significantly to the cost of investigating a residential customer dispute. Although some NGDCs do not charge for investigative on-site visits, others do. Equitable Gas Company, for example, charges a customer \$25 to conduct an on-site visit as part of a high bill investigation. See Equitable Tariff Rule 6.4. UGI Utilities, on the other hand, charges \$45 pursuant to its Tariff Rule 9.7 for the same activity. In both cases, the formally approved tariff charge is waived if the investigation detects a metering error. Disparities such as these in the cost of various NGDC dispute-related actions makes it difficult to calculate a meaningful across-the-board estimate of the cost of handling disputes, including slamming disputes.

While the costs associated with handling disputes, including slamming disputes, are admittedly difficult to estimate, we nevertheless remain convinced for several reasons that the NGDC costs for handling slamming disputes will not significantly impact an NGDC's overall dispute-handling costs. First, as noted previously, we do not anticipate that NGDCs will receive a high number of slamming complaints. Therefore, we do not anticipate the need for NGDCs to increase their fixed overhead costs to handle the volume. Second, expensive on-site or field visit costs, such as those noted above, will not be part of the NGDC investigations of slamming disputes. And third, slamming disputes to the NGDC will generally be investigated through review of documentation on EDI transactions, and resolved through the generation of additional corrective EDI

transactions. We do not believe the unit costs for these activities will be significant.

With respect to IRRC's suggestion that we consider whether a different classification, other than "disputes," would accomplish the same objectives without imposing the same costs on a NGDC, we do not believe that changing the name for these types of customer contacts will significantly change the activities or costs associated with addressing them in an appropriate manner. Following is a summary of the way we anticipate that the Chapter 56 dispute procedures will be applied to a slamming dispute. We include in the following summary a comparison with the actions inherent in the alternative procedures proposed by PGA.

Slamming complaints will fall under two broad categories: those registered before the switch request is processed, and those registered after the change in supplier has occurred. If, in response to receiving the 10-day confirmation letter required by §59.93(a)(2), a customer contacts the NGDC to both rescind the switch and allege slamming, the NGDC customer service representative (CSR) must access the customer's account and make a notation of the customer's claim. This step is necessary to satisfy the requirement at 52 Pa. Code §56.152(1) to document the claim or dispute. This action, and the cost associated with it, would also occur in PGA's alternative process. Next, the CSR would generate the appropriate EDI transaction(s) to rescind the switch request and, if applicable, reinstate the

customer with their prior competitive supplier. Once again, PGA's alternative procedure would require these actions and incur these costs. The NGDC would also notify the NGS who requested the switch of the customer's slamming allegation. The NGDC would ask the NGS to provide its position regarding the customer's slamming allegation so the NGDC could include this information in its response to the customer. This request to the NGS reflects adherence to the requirements at §56.151(2) to conduct a reasonable investigation, and the requirement at §56.151(4) to provide the complainant with the information necessary for an informed judgment. PGA's alternative procedures eliminate this action and instead would call for the NGDC to inform the customer to pursue the slamming allegation by contacting the NGS directly. Finally, the NGDC would convey the information it gathered to the customer pursuant to §56.151(4), determine satisfaction and prepare the appropriate summary of the resolution in accordance with §56.151(5). PGA's proposed procedures also call for documentation of the customer contact and provides "such documentation shall be available for inspection by the Commission." In regard to the dispute requirements at §56.151(1) (relating to the prohibition against threatening termination for disputed subject matter) and §56.151(3) (relating to negotiating payment terms), neither would apply to handling these types of disputes. Therefore, the costs associated with applying these two subsections of the Chapter 56 dispute procedures do not come into play.



If, on the other hand, the NGDC receives the slamming dispute after the switch has occurred, the steps noted above would apply, plus the additional step of securing appropriate billing adjustment from the NGS pursuant to §59.97(b). The billing adjustment information from the NGS to the NGDC would be communicated by means of an EDI transaction. PGA's alternative would place the burden on the customer to contact the NGS to have it rescind the switch and send a billing adjustment transaction. Additionally, PGA's procedures would require that the customer also contact their prior supplier to have it submit a new enrollment request so that the customer can be switched back to their original supplier.

In our view the activities summarized above, and the costs associated with implementing them, are reasonable and necessary to resolve these types of complaints, regardless of whether one refers to them as disputes, initial inquiries, claims, complaints or grievances. Also, many of the actions and costs to apply the Chapter 56 dispute procedures to these types of disputes are also inherent in PGA's alternative procedures. Our previously expressed view that the costs for handling these types of disputes are not significant is based, in part, on the fact that the NGDC actions primarily involve reviewing and initiating EDI transactions, making account notations, and preparing a record of the complaint. The NGDC is not determining the validity of the position taken by the NGS. The NGDC is relaying this position along with other pertinent information to the complainant.

With respect to PGA's contention that the anticipated actions expected of the NGDC under §59.97 are "unfair and disproportionate," we disagree given the complainant's relationship with the NGDC. The complainant is a customer of the NGDC and one of the consequences of a slam is that it adversely affects the customer's NGDC bills. In effect, the complainant is contacting the NGDC, in part, to prevent or correct inaccurate NGDC billings. PGA's alternative would require some customers to contact up to three entities to restore their account to its pre-slam status. In our view, promulgating regulations requiring this many contacts from a customer to reverse an unauthorized switch and correct NGDC billing information would neither be fair to the customer nor proportionate given the customer's role in the slam. When customers are required to contact multiple entities to resolve a complaint they did not cause, they often derisively refer to such practices as "getting the runaround" or being "ping-ponged." The proposed regulations avoid this practice, and do so without significantly affecting the costs incurred by the NGDC.

Besides avoiding the possibility of bouncing the customer between parties, we wish to reiterate some of the other advantages in using the Chapter 56 dispute procedures to handle slamming disputes. NGDC frontline service representatives are familiar with these procedures and therefore would need little additional training to properly implement them. Furthermore, by requiring that all customer contacts alleging slamming be classified as disputes, all parties can have more

confidence that complaints against an NGDC's affiliate will not be treated differently than slamming complaints against other NGSs. Finally, some suppliers will offer both gas and electric supply to customers, and at least one NGDC, PECO Energy, serves dual rate customers who receive a combined electric and gas bill. As we stated in the Proposed Rulemaking Order, it would be counterproductive to our goal of developing competitive gas and electric markets to impose substantively different rules for essentially the same activity. PGA, while agreeing "that both fixed utility groups should be on equal footing," suggests we maintain consistency by revising the corresponding regulations for electric choice at 52 Pa. Code §§57.171-57.179. We disagree. We believe the electric rules to date have proved effective in addressing slamming complaints, and therefore agree with the OCA that "... the Commission's regulations at 52 Pa. Code §57.171-179 ... provide a sound basis for addressing consumer concerns regarding slamming in retail gas choice."

On the basis of the lengthy rationale presented above, we remain convinced that the proposed language at §59.97(a)(1) is both reasonable and necessary to ensure consistent identification and handling of all slamming disputes, and to ensure, if necessary, that complete dispute records are available for Commission review. Therefore, we will not revise §59.97(a)(1) as recommended by PGA.

With respect to IRRC's comments regarding §59.97(b), IRRC correctly notes that this provision requires the Commission's BCS to issue an informal decision in response to receiving an informal complaint alleging supplier change without consent. Based on the BCS' experience with electric slamming complaints, the BCS will determine on a case-by-case basis whether the customer is responsible for charges incurred during the Commission's review. In many cases we anticipate that the change in the complainant's supplier will not have occurred since the complainant will have responded in a timely manner to the 10-day confirmation letter. In these instances the informal complainant will not be seeking a billing adjustment from the Commission. Instead, the complainant will generally be upset or angry about the attempt to switch without authorization, and will wish to pursue the matter, particularly when the supplier maintains it received the customer's authorization before it submitted the switch request. In cases where the customer fails to rescind the switch request in time to prevent receiving NGS charges, the BCS' informal decision will be based on a review of NGDC and/or NGS dispute records and issued, pursuant to 52 Pa. Code §56.163, "within a reasonable period." The internal Commission procedures established by the BCS pursuant to 52 Pa. Code §56.211 requests utility reports from the applicable parties within 14 days of notification by the BCS of the filing of an informal slamming complaint. In general, the complainant's billing status pending resolution of the

informal slamming complaint reflects a switch back to the original NGS pursuant to §59.97(c), either before the complainant contacts the BCS or shortly thereafter.

Concerning IRRC's comment regarding §59.97(e), this subsection allows the Commission to order an NGS to obtain written authorization from every new customer. IRRC, however, notes that §2206(b) of the Act permits both written and oral authorization, and therefore, suggests the Commission explain its authority to limit consent to written authorization.

Our authority to impose this limitation on NGSs that have a pattern of violating these regulations is rooted in the general enforcement powers accorded the Commission by Section 501(a) of the Public Utility, 66 Pa. C.S. §501(a). Specifically, the Commission has the power to enforce the Public Utility Code through promulgation of regulations. Therefore, in order to enforce §2206(b) on some NGSs, who have a track record of violating the regulations but have not lost their authority to provide natural gas supply services, it may be necessary to limit consent to written authorizations as opposed to oral which may be harder to document. Clearly, the basic intent of §2206(b) is to ensure customer consent to a change of suppliers. To satisfy the purpose of this provision, it may be necessary for some suppliers to limit their method of obtaining consent.

Given the unquestioned intent of this statutory provision, we submit that this regulation is valid since it is consistent with the statute. Clough v. Tax Review Board, 342 A.2d 483 (Pa. Cmwlth. 1975); Pa. State Education Ass'n v.

Com., Dept. Of Public Welfare, 449 A.2d 89 (Pa. Cmwlth. 1982) overruled on other grounds by Com. V. Gerstner, 656 A.2d 108 (Pa. 1995). There is a rational reason for limiting authorization for some suppliers to written authorization, which is, in fact, an authorization allowed by the statute. We have not exceeded our authority and there is no abuse of discretion in setting down this rule. Brocal Corp. V. Com., Dept. Of Transportation, 528 A.2d 114 (Pa. 1987).

**§59.98. Provider of last resort.**

For clarity, IRRC recommends replacing the phrase, "Sections 59.91-59.97, this section and §59.99 do not apply . . ." with the phrase, "Sections 59.91 to 59.99 do not apply. . . ."

**Response**

We agree and have made the change in the wording of §59.98 relating to provider of last resort.

**§59.99. Record maintenance.**

IRRC believes the Commission should clarify the meaning of the phrase "made available" in §59.99. IRRC questions whether records must be sent to the Commission, or whether the Commission will travel to a site to review records. Also, IRRC suggests that the Commission explain what would happen if either an NGDC or NGS does not have a location or a facility in Pennsylvania.

## **Response**

With respect to IRRC's concerns, we do not believe it necessary to modify for clarity the language at §59.99 in light of other complimentary Commission provisions. For example, when the Commission requests records of a slamming dispute as part of a BCS investigation of an informal complaint, the Commission does so in accordance with the requirement at 52 Pa. Code §56.163. Section 56.163 relates to Commission informal complaint procedures, and provides for review of appropriate records. Generally, companies provide these records via fax, e-mail, or the U.S. mail. In electric choice, the fact that some suppliers do not have offices located in Pennsylvania has not caused problems securing appropriate records. We do not anticipate that securing appropriate records will be a problem in the BCS' investigation of gas slamming informal complaints. If the Commission needs to review all slamming records of a particular company to conduct an informal investigation pursuant to 52 Pa. Code §3.113, the Commission has full power and authority under Section 506 of the Public Utility Code, 66 Pa.C.S. §506, to inspect records. Also, we note that the sentence in §59.99 that includes the phrase "made available" contains the same wording as in the corresponding electric choice provision at 52 Pa. Code §57.179. This wording has not caused problems securing electric slamming records and we have no reason to believe it will cause problems securing gas records. Therefore, we have not modified §59.99.

## **CONCLUSION**

In finalizing these regulations we believe we have met the intent of the Act at §2206(b) by establishing the necessary protections to assure that customers do not have their natural gas supplier changed without their consent. Accordingly, under 66 Pa. C.S. §§501, 504-506, 1301, and 1501, and the Act of July 31, 1968 (P.L. 769 No. 240) (45 P.S. §§1201-1208), and the regulations promulgated thereunder at 1 Pa. Code §§7.1-7.4, the Commission hereby adopts final regulations to ensure customer consent to a change of natural gas suppliers, as noted and set forth in Annex A;

**THEREFORE,**

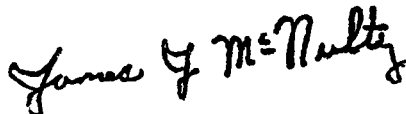
### **IT IS ORDERED:**

1. That the Commission's regulations at 52 Pa. Code Chapter 59 are hereby amended by adding §§59.91-59.99 to read as set forth in Annex A.
2. That the Secretary shall submit this Order and Annex A for formal review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.
3. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for approval as to legality.
4. That the Secretary shall submit this Order and Annex A to the Governor's Budget Office for review of fiscal impact.



5. That the Secretary shall deposit this Order and Annex A with the Legislative Reference Bureau to be published in the Pennsylvania Bulletin.
6. That a copy of this Order and Annex A and any accompanying statements of the Commissioners shall be served upon all jurisdictional natural gas distribution companies, and all parties who submitted comments in this rulemaking proceeding.
7. That a copy of this Order shall be posted on the Commission's web site and shall be made available, upon request, to all interested parties.
8. That the regulations adopted with this order are effective upon publication in the Pennsylvania Bulletin.
9. That the contact persons for this matter are Louis Sauers, Bureau of Consumer Services (717-783-6688) and Terrence J. Buda, Law Bureau (717-787-5755).

BY THE COMMISSION,



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: May 11, 2000

ORDER ENTERED: **MAY 12 2000**

## ANNEX A

### TITLE 52. PUBLIC UTILITIES PART 1. PUBLIC UTILITY COMMISSION Subpart C. FIXED SERVICE UTILITIES Chapter 59. GAS SERVICE STANDARDS FOR CHANGING A CUSTOMER'S NATURAL GAS SUPPLIER

#### **§59.91 Definitions**

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

*Customer*— ~~A purchaser of natural gas in whose name a service account exists with either an natural gas distribution company or an natural gas supplier. In addition, the term shall include all persons identified in writing by the customer, pursuant to the procedures set forth in these regulations, as authorized to act on a customer's behalf in changing the customer's natural gas supplier.~~ A RETAIL GAS CUSTOMER AS DEFINED BY SECTION 2202 OF THE NATURAL GAS CHOICE AND COMPETITION ACT, 66 PA. C.S. §2202. THE TERM INCLUDES ALL PERSONS IDENTIFIED BY THE NATURAL GAS DISTRIBUTION COMPANY (NGDC) RATEPAYER OF RECORD, PURSUANT TO §59.95, AS AUTHORIZED TO ACT ON BEHALF OF THE NGDC RATEPAYER OF RECORD IN CHANGING THE NATURAL GAS SUPPLIER (NGS) FOR THE ACCOUNT.

*DATA ELEMENT* – ONE OR MORE CHARACTERS THAT REPRESENT NUMERIC OR ALPHANUMERIC FIELDS OF DATA.

*Natural Gas Distribution Company or NGDC* - ~~An~~ A natural gas distribution company as defined by Section 2202 of the Natural Gas Choice and Competition Act, 66 Pa. C.S. §2202.

Natural Gas Supplier or NGS - A supplier as defined by Section 2202 of the Natural Gas Choice and Competition Act, 66 Pa. C.S. §2202.

**§59.92. Customer Contacts with the Natural Gas Distribution Company.**

When a customer orally contacts the natural gas distribution company NGDC to request a change of natural gas suppliers NGS, the natural gas distribution company NGDC shall notify the customer that the selected natural gas supplier NGS must be contacted directly in order to initiate the change.

**§59.93. Customer Contacts with Natural Gas Suppliers.**

(a) When a contact occurs between a customer and a natural gas supplier NGS to request a change of the natural gas supplier NGS, upon receiving direct oral confirmation or written authorization from the customer to change the NGS, the customer's new NGS shall:

(1) Notify the natural gas distribution company NGDC of the customer's NGS selection by the end of the next business day following completion of the application process. The NGDC shall verify the accuracy of the information provided by the NGS by matching at least two data elements SUCH AS NAME AND ACCOUNT NUMBER, OR ADDRESS AND ACCOUNT NUMBER, with their NGDC records.

(2) Upon receipt of this notification, the ~~natural gas distribution company~~ NGDC shall send the ~~customer~~ NGDC RATEPAYER OF RECORD a confirmation letter noting the proposed change of ~~natural gas supplier~~ NGS. This letter shall include notice of a ten day waiting period in which the order may be canceled before the change of the NGS takes place. The notice must include the date service with the new NGS will begin unless the customer contacts the ~~natural gas distribution company~~ NGDC to cancel the change. The ~~ten~~ 10-day waiting period shall begin on the day the letter is mailed. The letter must be mailed by the end of the next business day following the receipt of the notification of the customer's selection of a NGS.

**§59.94. Time Frame Requirement.**

When a customer has provided the ~~natural gas supplier~~ NGS with oral confirmation or written authorization to change ~~natural gas suppliers~~ NGSs, ~~consistent with out data transfer and exchange standards, the natural gas distribution company~~ NGDC must make the change at the beginning of the first feasible billing period following the 10-day waiting period, as prescribed above.

**§59.95. Persons Authorized to Act on Behalf of a Customer.**

Any customer may identify persons authorized to make changes to the customer's account. To accomplish this, the customer provides the ~~natural gas~~

distribution company NGDC with a signed document identifying by name those persons who have the authority to initiate a change of the customer's NGS.

**§59.96. Valid Written Authorization.**

A document signed by the customer whose sole purpose is to obtain the customer's consent to change natural gas suppliers NGSs shall be accepted as valid and result in the initiation of the customer's request. Documents not considered as valid include, but are not limited to, canceled checks, signed entries into contests and documents used to claim prizes won in contests.

**§59.97. Customer Dispute Procedures.**

(a) When a customer contacts an A natural gas distribution company NGDC or a natural gas supplier NGS and alleges that his/her natural gas supplier NGS has been changed without consent, the company contacted shall:

(1) Consider the matter a customer registered dispute.

(2) Investigate and respond to the dispute consistent with the requirements found in §§56.151 and 56.152 (relating to utility company dispute procedures).

(b) When the customer's dispute has been filed within the first two billing periods since the customer should reasonably have known of a change of natural gas suppliers NGSs and the dispute investigation establishes that the change occurred without the customer's consent, the customer shall not be responsible for

any NGS charges rendered during that period. If the customer has made payments during this period, the company responsible for initiating the change of supplier shall issue a complete refund within 30 days of the close of the dispute. The refund or credit provision applies only to the natural gas supply charges.

(c) A customer who has had a ~~natural gas supplier~~ NGS changed without having consented to that change shall be switched back to the original NGS for no additional fee. Any charges involved in the switch back to the prior ~~natural gas supplier~~ NGS shall be the responsibility of the company that initiated the change without the customer's consent.

(d) Should a customer file an informal complaint with the Commission alleging that the customer's ~~natural gas supplier~~ NGS was changed without the customer's consent, the Bureau of Consumer Services will issue an informal decision that includes a determination of customer liability for any ~~natural gas supplier~~ NGS bills or administrative charges that might otherwise apply, rendered since the change of the NGS.

(e) In addition to customer-specific remedies, the Commission may, after investigation and decision, assess fines pursuant to Chapter 33 of the Public Utility Code, 66 Pa. C.S. §§3301, et seq., and initiate proceedings to revoke the license of any NGS that demonstrates a pattern of violating these regulations. The Commission may order a particular NGS that has a pattern of violating these regulations to obtain written authorization from every new customer as a condition

of providing service in this Commonwealth. Nothing herein is intended to limit the Commission's authority.

**§59.98. Provider of Last Resort.**

~~The provisions of this subchapter~~ SECTIONS 59.91 TO 59.99 do not apply in instances when the customer's service is discontinued by the NGS and subsequently provided by the provider of last resort because no other NGS is willing to provide service to the customer.

**§59.99. Record Maintenance.**

~~Each natural gas distribution company NGDC and each natural gas supplier~~ NGS shall preserve all records relating to unauthorized change of ~~natural gas supplier~~ NGS disputes for a period of three years from the date the customers filed the disputeS. These records shall be made available to the Commission or its staff upon request.



PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH OF PENNSYLVANIA

JOHN M. QUAIN  
CHAIRMAN

May 17, 2000

The Honorable John R. McGinley, Jr.  
Chairman  
Independent Regulatory Review Commission  
14th Floor, Harrisstown II  
333 Market Street  
Harrisburg, PA 17101

Re: L-990145/57-211  
Final Rulemaking  
Establishing Procedures to Ensure Customer  
Consent to a Change of Natural Gas Supplier  
52 Pa. Code Chapter 59

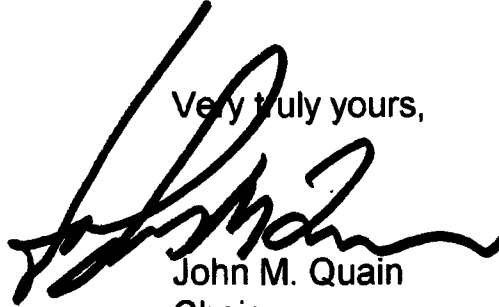
Dear Chairman McGinley:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on December 21, 1999, submitted a copy of the Notice of Proposed Rulemaking to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission (IRRC). This notice was published at 30 Pa.B. 37, on January 1, 2000. In compliance with Section 745.5(b.1) copies of all comments received were provided to your Commission and the Committees.



In preparing this final form rulemaking, the Public Utility Commission has considered all comments received from the Committees, IRRC and the public.

Very truly yours,

A handwritten signature in black ink, appearing to read "John M. Quain", written over the typed name.

John M. Quain  
Chairman

Enclosures

cc: The Honorable Clarence D. Bell  
The Honorable Lisa Boscola  
The Honorable Chris R. Wogan  
The Honorable Keith McCall  
Legislative Affairs Director Perry  
Chief Counsel Pankiw  
Regulatory Coordinator DelBiondo  
Assistant Counsel Buda  
Mr. Sauers  
Mr. Zogby

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT  
TO THE REGULATORY REVIEW ACT

RECEIVED

2000 MAY 17 PM 2: 25

ID Number: L-00990145/57-211

INDEPENDENT REGULATORY  
REVIEW COMMISSION

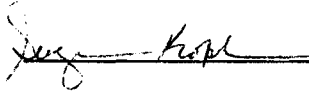
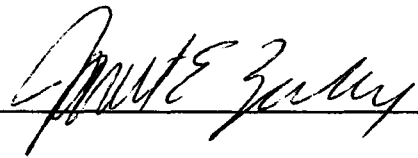
Subject: Establishing Procedures to Ensure Customer Consent  
to Change of Natural Gas Supplier

Pennsylvania Public Utility Commission

TYPE OF REGULATION

- ☐ Proposed Regulation
- ☐ Final Regulation with Notice of Proposed Rulemaking  
Omitted.
- ☒ Final Regulation
- ☐ 120-day Emergency Certification of the Attorney  
General
- ☐ 120-day Emergency Certification of the Governor

FILING OF REPORT

Date	Signature	Designation
5/17/00		HOUSE COMMITTEE Consumer Affairs
MAY 17 2000		SENATE COMMITTEE Consumer Protection and Professional Licensure
5-17-00	Jessica Vaillancourt	Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau