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JOHN F. MIZNER, ESQ.  
ROBERT E. NYCE, EXECUTIVE DIRECTOR  
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417  
FAX: (717) 783-2664  
irrc@irrc.state.pa.us  
<http://www.irrc.state.pa.us>

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

March 3, 2000

Honorable John M. Quain, Chairman  
Pennsylvania Public Utility Commission  
104 North Office Building  
Harrisburg, PA 17105

Re: IRRC Regulation #57-211 (#2080)  
Pennsylvania Public Utility Commission  
Procedures to Ensure Customer Consent to a Change of Natural Gas Suppliers

Dear Chairman Quain:

Enclosed are our Comments on the subject regulation. They are also available on our website at <http://www.irrc.state.pa.us>.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact Jim Smith at 783-5439.

Sincerely,

Robert E. Nyce  
Executive Director

wbg

Enclosure

cc: Dan Mumford  
Terrence J. Buda  
Sherri DelBiondo  
Office of General Counsel  
Office of Attorney General  
Lee Ann Labecki

# **Comments of the Independent Regulatory Review Commission**

**on**

## **Pennsylvania Public Utility Commission Regulation No. 57-211**

### **Procedures to Ensure Customer Consent to a Change of Natural Gas Suppliers**

**March 3, 2000**

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which has not been met. The Pennsylvania Public Utility Commission (PUC) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by January 31, 2002, the regulation will be deemed withdrawn.

#### **1. Section 59.91. Definitions. – Need; Clarity.**

##### *Customer*

The phrase “a service account exists with either a [Natural Gas Distribution Company] NGDC or a [Natural Gas Supplier] NGS” in the definition of “customer” is unclear. We recognize that some business customers deal almost exclusively with the NGS. However, a typical residential customer could be listed with both the NGDC and the NGS. In this instance which service account would be controlling for other provisions proposed in this regulation, such as Section 59.95?

Also, it does not appear the reference to Sections 59.92 to 59.99 is needed. Section 59.95 is the only section that addresses persons authorized to act on behalf of a customer. Wouldn't a reference to Section 59.95 be sufficient?

#### **2. Section 59.93. Customer contacts with the NGS. – Clarity.**

##### *Paragraph (1) Data elements*

Paragraph (1) requires the NGDC to match two “data elements” to verify the accuracy of information provided by the NGS. What are examples of the data elements required to verify a switch? For example, if a third party is designated to act on behalf of a customer under Section 59.95, would that information have to be one of the data elements to verify the authorization is valid? The PUC should define the term “data elements” and list examples in this paragraph.

### *Paragraph (2 )Notification*

Paragraph (2) requires the NGDC to send a confirmation letter to the customer. Since the definition of “customer” includes other persons who can act on behalf of the customer, the PUC should clarify in the regulation whether or not notice to all persons who have authority to initiate a change of the customer’s NGS is required.

### **3. Section 59.94. Time frame requirement. – Clarity.**

Section 59.94 requires an authorization for a change of NGS to be “consistent with the Commission’s data transfer and exchange standards.” The regulation is unclear what standards are required. The PUC should either add a reference to the required standards, or delete this phrase.

### **4. Section 59.95. Persons authorized to act on behalf of the customer. – Clarity.**

The regulation does not address the process of adding or deleting persons authorized to act on behalf of the customer. 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? The PUC should address this situation.

### **5. Section 59.97. Customer Dispute Procedures. – Consistency with Statute; Economic Impact; Reasonableness; Clarity.**

#### *Subsection (a)(1) Disputes*

We have two concerns regarding Subsection (a)(1). First, why is the NGDC required to consider the matter a “dispute?” The classification as a dispute requires a utility to follow procedures outlined under Chapter 56 of the PUC’s regulations (52 Pa. Code §§ 56.151 – .152). Sections 56.151 and 56.152 include requirements to investigate the matter, make a diligent attempt to negotiate a reasonable payment agreement and issue a written report.

The Regulatory Analysis Form states the PUC believes the costs to the regulated community will not be significant. However, one commentator believes these costs are unfair and disproportionate. The PUC should provide a specific estimate of the costs imposed by this provision and an explanation of why these costs are justified. The PUC should also consider whether a different classification, other than “disputes,” would accomplish the same objectives for the PUC without imposing costs on the NGDC.

#### *Subsection (d) Bureau of Consumer Services*

Subsection (d) requires the Bureau of Consumer Services to issue an informal decision when a customer files an informal complaint alleging that their NGS was changed without consent. Under 52 Pa. Code § 56.163, the PUC is required to issue a decision on an informal complaint within a “reasonable period of time.” Is the customer responsible for charges during the PUC’s review? The PUC should explain the time frame for the BCS’ decision, and what the customer’s billing status is during this period.

*Subsection (e) Written authorization*

This subsection allows the PUC to order an NGS to “obtain written authorization from every new customer as a condition of providing service in this Commonwealth.” Section 2206(b) of the Act allows an NGDC to change a NGS with “direct oral confirmation from the customer of record or written evidence of the customer’s consent. . . .” Since both written and oral authorization are permitted in the Act, the PUC should explain its authority to limit consent to written authorization.

**6. Section 59.98. Provider of last resort. – Clarity.**

This section begins with the phrase, “Sections 59.91 – 59.97, this section and § 59.99 do not apply. . . .” For clarity, the PUC should consider replacing that phrase with “Sections 59.91 to 59.99 do not apply. . . .”

**7. Section 59.99. Record maintenance. – Reasonableness.**

Section 59.99 requires each NGDC and NGS to “preserve all records that relate to unauthorized change of NGS disputes for three years from the date the customer filed the dispute.” These records must be “made available” to the PUC upon request. It is unclear what the phrase “made available” means. Must the records be sent to the PUC, or will the PUC travel to a site to review these records? The PUC should explain what would happen if either an NGDC or NGS does not have a location or a facility in the Commonwealth.

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## INDEPENDENT REGULATORY REVIEW COMMISSION

**To:** Sherri A. DelBiondo  
Regulatory Review Coordinator  
Law Bureau  
**Agency:** Pennsylvania Public Utility Commission  
**Phone:** 2-4597  
**Fax:** 3-3458

**From:** Kristine M. Shomper  
Deputy Director for Administration  
**Company:** Independent Regulatory Review  
Commission  
**Phone:** (717) 783-5419 or (717) 783-5417  
**Fax:** (717) 783-2664

**Date:** March 3, 2000  
**# of Pages:** 5

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-211. Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:

*Sheri DelBiondo*

Date:

*3-3-00*

RECEIVED TIME MAR. 3. 9:00AM

PRINT TIME MAR. 3. 9:02AM