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

August 10, 2000

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

Re: IRRC Regulation #57-215 (#2116)
Pennsylvania Public Utility Commission
Customer Information Disclosure Requirements
For Natural Gas Distribution Companies and Natural Gas Suppliers

Dear Chairman Quain:

Enclosed are our Comments. They will soon be available on our website at 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 my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director

cae

Enclosure

cc: Honorable Chris R. Wogan, Majority Chairman, House Consumer Affairs Committee
Honorable Keith McCall, Democratic Chairman, House Consumer Affairs Committee
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection & Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection & Professional Licensure Committee
Sherri DelBiondo
Lawrence F. Barth
Dr. Z. Ahmed Kaloko

Comments of the Independent Regulatory Review Commission

on

Pennsylvania Public Utility Commission Regulation No. 57-215

Customer Information Disclosure Requirements for Natural Gas Distribution Companies and Natural Gas Suppliers

August 10, 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 have not been met. The Pennsylvania Public Utility Commission must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by July 11, 2002, the regulation will be deemed withdrawn.

1. Section 62.72. Definitions. - Consistency with statute; Clarity.

General.

This section defines five terms that are also defined in the Natural Gas Choice and Competition Act (Act). We object to the definitions of the following terms that differ from the Act: "NGDC – natural gas distribution company," "NGS – natural gas supplier," "Natural gas distribution service," "Natural gas supply services," and "Retail gas customer." If the PUC does not use the statutory definitions in the final-form regulation, it should justify the changes.

Nonbasic services.

A nonbasic service is defined as "[O]ptional recurring services which are distinctly separate and clearly not required for the physical delivery of natural gas service." The PUC should consider including some examples of nonbasic services in the definition.

2. Section 62.73. Standards and pricing practices for retail natural gas service. - Clarity.

Paragraph (1) references "disclosure statements," and the term is used throughout the regulation. However, the term is not defined in Section 62.72. Instead, Section 62.72 defines "consumer contract," as a disclosure statement. For clarity, the term "disclosure statement" should be defined in Section 62.72 and the definition of "consumer contract" should be deleted. Additionally, "disclosure statement" should be used consistently throughout the regulation.

We understand the "Consumer's Dictionary for Natural Gas Competition," referenced in Paragraph (3), will replace the "Glossary of Gas Terms for the Consumer." Since the regulation references the Dictionary, the PUC needs to ensure that the Dictionary is complete (and its terms are consistent with the regulation) prior to final promulgation of this regulation.

Paragraph (3) includes a requirement that NGDCs will provide the Dictionary upon the customer's request, and the "Common Natural Gas Competition Terms" (distributed by the NGDCs) shall indicate the phone number and address to request the Dictionary. It is unclear whether the phone number and address provided would be the NGDC's or the PUC's. As we understand it, the phone number and address would be that of the NGDC. The final-form regulation should be amended to clarify this point.

Paragraph (4) references each NGDC's consumer education program. To improve clarity, the PUC should include a cross-reference to Section 2206(d) of the Act which mandates the consumer education programs.

3. Section 62.74. Bill format for residential and small business customers. - Clarity.

Subsection (a)

Subsection (a) says that "NGS prices billed shall reflect the marketed prices and the agreed upon prices in the disclosure statement." The difference between these terms is unclear. If each of these terms has a different meaning, the PUC should define "marketed prices," "agreed upon prices" and "billed prices." If these terms have the same meaning, the PUC should define a single term and use it consistently throughout the regulation. Also, the PUC should clarify why it is necessary to reference "marketed prices" in addition to "agreed upon prices."

Subsection (b)

Subsection (b)(5) provides that the requirements of Section 56.15 shall be incorporated in customer bills *to the extent that they apply* (emphasis added). Are there billing situations in the context of this regulation that are not subject to Section 56.15? If not, the phrase should be eliminated.

4. Section 62.75. Disclosure statement for residential and small business customers. - Reasonableness; Clarity.

Subsection (a)

This subsection requires the "agreed upon prices" in the disclosure statement to "reflect the marketed prices and the billed prices." Consistent with our Comment on Section 62.74(a), the PUC should define "marketed prices," "agreed upon prices" and "billed prices," if each of these terms has a different meaning. If these terms have the same meaning, the PUC should define a single term and use it consistently throughout the regulation. Also, the PUC should clarify why it is necessary to reference the "marketed prices" in addition to "billed prices."

Subsections (c)(9), (c)(11) and (c)(13)

These subsections require that consumers be provided with telephone numbers for the supplier of last resort, the NGS, and the appropriate office for universal service program information. In its comments, Community Legal Services, Inc. (CLS) recommends that the PUC require toll-free numbers for customers contacting these parties. CLS argues that when making a call, the customer may be placed on hold or transferred to other offices. The expense of these calls could be particularly burdensome for low-income customers. Has the PUC considered requiring toll-free telephone numbers as suggested by CLS?

Subsection (g)(1)

This subsection requires suppliers to send written notices to customers at 90 and 60 days prior to the expiration of a fixed term agreement. The 90-day and 60-day notices will explain options for renewal. In its comments, CNG Retail Services Corporation (CNGR) points out that some customers have fixed term agreements with less than three months duration. In the final regulation, the PUC should clarify that the 90-day and 60-day notices apply to agreements of more than 90 days duration. Additionally, the PUC should clarify what renewal notice requirements, if any, apply to short-term agreements.

Subsection (g)(2)

This subsection permits the notice in Subsection (g)(1) to serve as an amendment to the original agreement, extending the time period of the agreement, “if the customer affirmatively reselects the NGS.” In the final regulation, the PUC should clarify the meaning of “affirmatively reselect.”

Additionally, we question what occurs if a customer wants to convert a long-term agreement to a month-to-month contract. Does the customer have to “affirmatively reselect” this option, or will the conversion occur if there is no action by the customer? Subsection (g) does not address this situation. The PUC should address this type of conversion of service in the final regulation, including appropriate disclosures of this information to customers in the 90-day and 60-day notices.

5. Section 62.76. Request for information. - Clarity.

Subsections (a) and (c) refer to “efficiency information” and “information on energy efficiency.” For improved clarity, the PUC should define the appropriate term and use that term consistently throughout the section.

6. Section 62.77. Marketing/sales activities. - Reasonableness; Clarity.

Subsections (b)(1) and (b)(2) require prices for supply service to be shown in “ccf of natural gas or equivalent.” However, Subsection (a) requires an NGS’s advertised prices to be in the “standard pricing unit of the NGDC.” For improved clarity and consistency between requirements, the PUC should amend subsection (b) to require prices to be in the standard pricing unit of the NGDC. Additionally, the PUC should clarify if the requirements in Subsections (b)(1) and (2) apply to all marketing materials, or only to marketing materials that are accompanied by disclosure statements.

Subsection (b)(1) applies to fixed pricing of natural gas. The PUC should clarify whether this provision also applies to declining block rates.

Subsection (b)(2) requires marketing materials for a variable price mechanism to show the “average price for supply service” per month for 15, 80 and 120 ccf of natural gas. We have questions and comments concerning this provision. First, Section 62.75(c)(2)(ii) of the proposed regulation requires the disclosure statement for residential and small business customers to include the starting and ceiling price for variable price mechanisms. For consistency between requirements, the PUC should consider requiring marketing materials to show the starting and ceiling price, rather than the average price.

Second, does Subsection (b)(2) require a statement of the average price over several months or for only one month? Additionally, are the marketing materials required to include a statement that the prices shown reflect gas prices for a particular date?

7. Section 62.78. Privacy of customer information. - Clarity.

The term “convenient method” referenced in Subsection (a) is vague. The PUC should amend the final regulation to specify that the customer must be given the option of restricting the release of private information consistent with Subsection (b).

8. Section 62.79. Complaint handling process. - Reasonableness; Clarity.

This section requires NGDCs and NGSs to make certain specified disclosures to customers with respect to their rights in the handling and resolution of complaints. Consistent with our Comment on Section 62.75, has the PUC considered requiring that toll-free numbers be provided for customers?

9. Section 62.80. Common natural gas competition terms. - Clarity.

A comparison of the terms used in this section with the same terms defined in the “Glossary of Gas Terms for the Consumer” reveals some discrepancies in almost every definition. The PUC should ensure that the definitions in this section and in the “Glossary of Gas Terms for the Consumer” are consistent.

INDEPENDENT REGULATORY REVIEW COMMISSION

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INDEPENDENT REGULATORY REVIEW COMMISSION

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Regulatory Review Coordinator
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From: Kristine M. Shomper
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Date: August 10, 2000
of Pages: 6

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-215. 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: Sherri DelBiondo Date: 7/10/00

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