

Regulatory Analysis Form

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(1) Agency

Pennsylvania Public Utility Commission

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L-00000151/57-218

REGULATORY
REVIEW COMMISSION

IRRC Number: #2172

(3) Short Title

Proposed Rulemaking on Natural Gas Emergency Plans and Emergency Actions.

(4) PA Code Cite

52 Pa. Code 59.71-59.75.

(5) Agency Contacts & Telephone Numbers

Primary Contact: David E. Screven, 717-787-2126 (legal)

Secondary Contact: Dr. Ahmed A. Kaloko, Bureau of Conservation, Economics and Energy Planning (717) 787-2139 (technical)

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed Natural Gas Emergency Regulations are designed to address the management of natural gas emergencies in the newly competitive environment so as to maintain (or restore as quickly as possible) gas service to essential human needs customers while minimizing service disruption. These proposed regulations are intended to address emergencies which, by definition, are limited to situations where available firm supply or capacity is not sufficient to meet firm service requirements. The proposed regulations address a number of matters that are critical to gas emergency and gas curtailment, including: (1) emergency load shedding, (2) a call for voluntary usage reduction, (3) a call for mandatory load and usage reduction, (4) issuance of periodic reports to the media on emergency situations, (5) notice of affected customers and NGSs, (6) customer and NGS delivery requirements that apply to emergency actions, (7) a procedure for focusing emergency measures to confined geographic areas, and (8) procedures for establishing communications. On all of these issues, the regulations provide a strong framework for addressing these issues in more detail in the context of each utility's tariff and operational procedures.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

66 Pa. C.S. §§ 501, 2203(1).

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(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.

Natural Gas Choice and Competition Act, 66 Pa. C.S. §§ 2201-2212.

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

The Natural Gas Emergency Regulations set forth below are designed to address the management of natural gas emergencies in this new environment in order to maintain (or restore as quickly as possible) gas service to essential human needs customers while minimizing service disruption. The purpose of these arrangements is to provide a means to minimize the potential of supply shortfalls that threaten public health and safety in crisis situations and give notice to the public concerning usage reductions so as to avoid confusion in these situations.

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

Non-regulation could result in an immediate threat to the NGDC's system operating integrity with respect to its customers and physical harm to an industrial or commercial consumer's facility, or danger to personnel at such facility because of the lack of detailed procedures for the curtailment of service in crisis situations.

(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 distribution company customers and all NGSs licensed to provide services to their customers will benefit from the regulations because there will be responsive action plans in place to protect their customers, themselves and their property in the event of a crisis

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(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.)

No person or entity will be adversely affected by the regulations. The regulations are imposed on all natural gas suppliers and distributors so as to provide a means to minimize the potential of supply shortfalls that threaten public health and safety.

(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.

(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.

Commission staff established a Collaborative Working Group as the appropriate vehicle to proceed with the implementation of gas emergency plans and curtailment under the Natural Gas Choice and Competition Act, 66 Pa. C.S. §§ 2201, et seq. On February 29, 2000, Commission staff convened the first meeting of the Gas Safety and Reliability Working Group addressing gas emergency plans and curtailment issues. At the initial meeting of the working group, Commission staff identified statutory directives that applied to the working group, framed a tentative list of issues that should be addressed by the working group, and established a date for the submission of informal comments. Several meetings of the working group were held between February and April 2000. Commission staff urged the parties to identify those common issues that would be addressed in the meetings. The Office of the Consumer Advocate, the Office of Trial Staff, the Pennsylvania Gas Association, Texas Eastern Corporation, CNG Retail Services Corporation and TXU Energy Services (filed jointly with Statoil Energy) submitted informal comments on February 29, 2000. The working group agreed that the requirements for gas emergency plans should be more than Guidelines. As a result, the working group designated selected members to draft suggested regulations and this draft was delivered to the full group and considered at the meeting on May 23, 2000. The working group agreed that the proposed regulations should be presented at Public Meeting for the Commission's consideration.

(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.

Not applicable.

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(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.

Not applicable.

(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.

Not applicable.

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(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
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

Not measurable at this time.

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

Program	FY -3	FY -2	FY -1	Current FY
Not applicable.				

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

Not applicable.

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

Not applicable.

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

Not applicable.

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(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?

The regulations will not put Pennsylvania at a competitive disadvantage with other states.

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

Yes. The Guidelines at Sections 69.21-69.27 in the Pennsylvania Code are to be eliminated. Additionally, since Section 59.63 of the Pennsylvania Code refers to the Guidelines at Sections 69.21-69.27, Section 59.63 will also be modified to reflect the proposed changes.

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

No.

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(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.

Not applicable.

(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 become effective upon publication in the Pennsylvania Bulletin following review by the standing committees and the Independent Regulatory Review Commission.

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

The regulation will be reviewed on an ongoing basis after it becomes effective.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REGULATORY
REVIEW COMMISSION

2172

DO NOT WRITE IN THIS SPACE

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

BY [Signature]
(DEPUTY ATTORNEY GENERAL)

OCT 06 2000

DATE OF APPROVAL

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-00000151/57-218

DATE OF ADOPTION July 20, 2000

BY [Signature]
James J. McNulty

TITLE (SECRETARY)

Check if applicable
Copy not approved. Objections attached

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

BY [Signature]
Bohdan R. Pankiw
Chief Counsel

7/20/00
DATE OF APPROVAL

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

L-00000151/57-218
Proposed Rulemaking
Natural Gas Emergency Plans and
Emergency Actions
52 Pa. Code, Chapter 59

The Pennsylvania Public Utility Commission on July 20, 2000, adopted a proposed rulemaking order setting forth the procedures the Commission intends to follow in managing natural gas emergencies in order to maintain gas service and minimize service disruptions. The contact persons are Ahmed Kaloko, Bureau of Conservation, Economics and Energy Planning (717) 787-2139 and David Screven, Law Bureau (717) 787-2126.

EXECUTIVE SUMMARY
L-00000151/57-218
Proposed Rulemaking Order
Re: Natural Gas Emergency
Plans and Emergency Actions.
52 Pa. Code Chapter 59

For many years, natural gas emergency planning has been a staple of Pennsylvania's natural gas distribution companies' (NGDCs) operational considerations. Given the necessity for 100% reliability on all natural gas distribution systems, NGDCs have long planned for force majeure or other unexpected events that threatened system integrity.

On June 22, 1999, Governor Tom Ridge signed into law the Natural Gas Choice and Competition Act (Act). The Act revised the Public Utility Code, 66 Pa. C.S. §§ 101, et seq., by inter alia, adding Chapter 22, relating to the restructuring of the natural gas utility industry. Nevertheless, the Act is clear that even with the restructuring of the natural gas industry, the requirement for 100% reliability of all NGDC systems remains constant.

The Natural Gas Emergency Regulations set forth below are designed to address the management of natural gas emergencies in this new environment in order to maintain (or restore as quickly as possible) gas service to essential human needs customers while minimizing service disruption. The proposed regulations address a number of matters that are critical to gas emergency and gas curtailment, including: (1) emergency load shedding, (2) a call for voluntary usage reduction, (3) a call for mandatory load and usage reduction, (4) issuance of periodic reports

to the media on emergency situations, (5) notice of affected customers and NGSs, (6) customer and NGS delivery requirements that apply to emergency actions, (7) a procedure for focusing emergency measures to confined geographic areas, and (8) procedures for establishing communications. On all of these issues, the regulations provide a strong framework for addressing these issues in more detail in the context of each utility's tariff and operational procedures. The contact persons are Dr. Ahmed Kaloko, Bureau of Conservation, Economics and Energy Planning (technical), (717) 787-2139 and David Screven, Law Bureau (legal), (717) 787-2126.

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

Public Meeting held July 20, 2000

Commissioners Present:

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

Proposed Rulemaking on Natural Gas Emergency Plans and Emergency Actions. Docket No. L-00000151

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

On June 22, 1999, Governor Tom Ridge signed into law the Natural Gas Choice and Competition Act (Act). The Act revised the Public Utility Code, 66 Pa. C.S. §§ 101, et. seq., by inter alia, adding Chapter 22, relating to the restructuring of the natural gas utility industry. The Pennsylvania Public Utility Commission (Commission) is the agency charged with implementing the Act.

This Order sets forth the procedures the Commission intends to follow in executing its responsibilities under the Natural Gas Choice and Competition Act, as codified in 66 Pa. C.S. §§ 2201-2212.

BACKGROUND

For many years, natural gas emergency planning has been a staple of Pennsylvania's natural gas distribution companies' (NGDCs) operational considerations. Given the necessity for 100% reliability on all natural gas distribution systems, NGDCs have long planned for force majeure or other unexpected events that threatened system integrity. Most plans called for orderly ways to immediately drop gas load in the threatened parts of the NGDC system. During the 1970s, when anticipated gas supply shortages appeared to become endemic and also threatened the viable operation of every local distribution company (LDC), gas supply curtailment plans were incorporated into all NGDC tariffs at the direction of the Commission. To this day, there is a requirement that curtailment plans be incorporated in the tariffs.

After the issuance of FERC Order 636 in 1992, which removed pipelines from the merchant function and made them transporters of natural gas, and the passage of Pennsylvania's Natural Gas Choice and Competition Act in 1999, the importance of revising these requirements became apparent. In this context, natural gas suppliers (NGSs) are responsible for bringing increased volumes of gas to NGDCs to satisfy the requirements of their customers. Nevertheless, the requirement for 100% reliability of all NGDC systems remains.

The Commission approved the Interim Safety and Reliability Guidelines (Interim Guidelines) at its Public Meeting on October 15, 1999, at Docket No.

L-00990144 for both NGDCs and NGSs to consider their respective roles in this emerging competitive environment. On April 24, 2000, at Docket No. M-00001351, the Commission adopted a Proposed Policy Statement incorporating the Interim Guidelines into Chapter 69 of its regulations. Likewise, natural gas emergency planning should also reflect the various roles of the participants in this new environment. The Natural Gas Emergency Regulations set forth below are designed to address the management of natural gas emergencies in this new environment in order to maintain (or restore as quickly as possible) gas service to essential human needs customers while minimizing service disruption.

These proposed regulations are intended to address emergencies, which by definition, are limited to situations where available firm supply or capacity is not sufficient to meet firm service requirements. Accordingly, the interruption of interruptible services, and their subsequent restoration, are not addressed. The treatment of interruptible services raises valid issues, however, and the Commission expects NGDCs to address these issues, including electric generation facilities that use interruptible service, in the reliability plans that NGDCs are required to file with the Commission annually pursuant to 66 Pa. C.S. § 1317(c).

DISCUSSION

Commission staff established a Collaborative Working Group as the appropriate vehicle to proceed with the implementation of gas emergency plans and curtailment under the Natural Gas Choice and Competition Act, 66 Pa. C.S. §§

2201, et seq. On February 29, 2000, Commission staff convened the first meeting of the Gas Safety and Reliability Working Group addressing gas emergency plans and curtailment issues.

At the initial meeting of the working group, Commission staff identified statutory directives that applied to the working group, framed a tentative list of issues that should be addressed by the working group, and established a date for the submission of informal comments. Several meetings of the working group were held between February and April 2000.

Commission staff urged the parties to identify those common issues that would be addressed in the meetings. The Office of the Consumer Advocate, the Office of Trial Staff, the Pennsylvania Gas Association, Texas Eastern Corporation, CNG Retail Services Corporation and TXU Energy Services (filed jointly with Statoil Energy) submitted informal comments on February 29, 2000.

The working group agreed that the requirements for gas emergency plans should be more than Guidelines. As a result, the working group designated selected members to draft suggested regulations and this draft was delivered to the full group and considered at the meeting on May 23, 2000. Since the proposed regulations were designed to replace the Commission Gas Curtailment Guidelines at Sections 69.21-69.27 of Chapter 69, the working group placed the proposed regulations in Chapter 59 on Gas Service rather than in Chapter 69 concerning Policy Statements and Guidelines. The working group agreed that the proposed

regulations should be presented at Public Meeting for the Commission's consideration.

The Commission intends that these regulations be incorporated into its regulations at 52 Pa. Code Chapter 59, relating to Gas Service. The Guidelines at Sections 69.21-69.27 are to be eliminated. Additionally, since Section 59.63 refers to the Guidelines at Sections 69.21-69.27, Section 59.63 will also be modified to reflect the proposed changes.

The proposed regulations address a number of matters that are critical to gas emergency and gas curtailment, including: (1) emergency load shedding, (2) a call for voluntary usage reduction, (3) a call for mandatory load and usage reduction, (4) issuance of periodic reports to the media on emergency situations, (5) notice of affected customers and NGSs, (6) customer and NGS delivery requirements that apply to emergency actions, (7) a procedure for focusing emergency measures to confined geographic areas, and (8) procedures for establishing communications. On all of these issues, the regulations provide a strong framework for addressing these issues in more detail in the context of each utility's tariff and operational procedures.

During discussions in the working group sessions, a suggestion was made to include a section in the proposed regulations indicating that the Commission would issue Emergency Orders that might include substantial penalties for any customer continuing to take gas in violation of the rules found in this subchapter.

The members agreed not to include this in the proposed rulemaking, but rather to solicit additional comments on the issue.

The Commission already has adequate authority to issue Emergency Orders and to impose such penalties as are appropriate for violations. In order to continue the collaborative process, however, the Commission will consider comments concerning the use of Emergency Orders to address issues raised by a customer's continued consumption of gas in violation of the proposed rules, particularly in situations where the NGDC is unable to discontinue service. To the extent that comments demonstrate a need for further Commission directives on these issues, we will initiate a separate proceeding at the appropriate time.

In order to ensure the continued safety and reliability of natural gas service in Pennsylvania, we propose to amend Chapter 59 by modifying Section 59.63, adding Sections 59.71-59.75, which establishes regulations for natural gas emergency plans and curtailment safety and reliability, and eliminating Sections 69.21-69.27 of Chapter 69 of the Commission's regulations. Accordingly, pursuant to sections 501 of the Public Utility Code, 66 Pa. C.S. § 501, and the Commonwealth Document Law, 45 P.S. §§ 1201, et seq., and regulations promulgated thereunder at 1 Pa. Code §§ 7.1-7.4, we amend the regulations as noted above and as set forth in Annex A; **THEREFORE,**

IT IS ORDERED:

1. That a Rulemaking Docket shall be opened to promulgate regulations for Gas Emergency Plans as set forth in Annex A.
2. That the Secretary shall submit a copy of this Order and Annex A to the Office of Attorney General for preliminary review as to form and legality.
3. That the Secretary shall submit a copy of this order, together with Annex A, to the Governor's Budget Office for review of fiscal impact.
4. That the Secretary shall submit this order and Annex A for review and comments by the designated standing committees of both houses of the General Assembly, and for review and comments by IRRC.
5. That the Secretary shall certify this order and Annex A and deposit them with Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
6. That within 30 days of this order's publication in the *Pennsylvania Bulletin*, any interested person may submit an original and 15 copies of written comments to the Office of the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA., 17105-3265. One copy of a diskette containing the comments in electronic format should also be submitted. A copy of written comments shall be served upon the Commission's Bureau of Conservation, Economics and Energy Planning. Reply comments will be due 15 days from the last date of the 30-day comment period.

7. That a copy of this order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all jurisdictional natural gas distribution companies and all licensed natural gas suppliers, and provided to all interested persons.

8. The contact persons for this Matter are Ahmed Kaloko, Bureau of Conservation, Economics and Energy Planning, (717) 787-2139 (technical) and David Screven, Law Bureau, (717) 787-2126 (legal).

BY THE COMMISSION

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: July 20, 2000

ORDER ENTERED: July 20, 2000

ANNEX A

TITLE 52. PUBLIC UTILITIES
PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
Chapter 59.GAS SERVICE

REPORTING AND CURTAILMENT OF SERVICE

* * * * *

§ 59.63. [Curtailed tariffs] Natural Gas Emergency plans.

As part of its officially filed tariff, each jurisdictional gas utility shall have on file with the Commission [detailed procedures for the curtailment of service] natural gas emergency plans. The [curtailed tariffs] plans shall be under Commission [guidelines] requirements contained at §§ [69.21—69.27 (relating to gas curtailment)] 59.71 – 59.75 (relating to gas emergency plans).

* * * * *

GAS EMERGENCY PLANS

§ 59.71. Definitions. The following words and terms, when used in §§59.72-59.75, have the following meanings, unless the text clearly indicates otherwise:

Alternate fuel. Any fuel other than natural gas.

Alternate fuel capability. The installed and operable ability to use any fuel other than natural gas on a time sensitive basis.



Commercial use. Gas usage by customers engaged primarily in the sale of goods and services including, but not limited to, consumption by office buildings, institutions, and government agencies.

Essential human needs use. Gas usage in any building where persons normally dwell including, but not limited to, residences, apartment houses, dormitories, hotels, hospitals, and nursing homes.

Firm service. Natural gas service offered to consumers under tariffs or contracts that anticipate no interruption.

Industrial use. Gas usage by customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product including the generation of electric power.

Interruptible service. Natural gas services that can be temporarily discontinued under terms and conditions specified by tariff or contract.

Plant protection use. Minimum usage of natural gas required to prevent physical harm to an industrial or commercial consumer's facility, or danger to personnel at such facility, when such protection cannot be afforded through the use of an alternate fuel. Plant protection use includes usage necessary for the protection of such material in process as would otherwise be destroyed, but does not include deliveries required to maintain production.

Residential use. Gas usage in a residential dwelling or unit for space heating, air conditioning, cooking, water heating, or other domestic purpose.

§ 59.72. Natural Gas Emergency Planning.

- (a) Within 90 days from the effective date of these regulations, or such later date as may be determined by the Commission, each NGDC shall file with the Commission a Natural Gas Emergency Plan reflecting its unique operational characteristics and design criteria. Each plan shall contain simplified and understandable rules and regulations so that all of the NGDC's customers and all NGSs licensed to provide services to their customers can have a responsive action plan in place to protect themselves and their property in the event of a crisis. NGDCs shall file revisions to their plans when and as appropriate, or as directed by the Commission.
- (b) As part of their emergency planning, NGDCs are encouraged to make contractual or informal arrangements with their transportation customers, sales customers and others to obtain supplies or, as an alternative, to implement usage reductions, so that resorting to firm service reductions under 59.73 (relating to emergency action) can be avoided, or the severity of supply or capacity disruption can be mitigated. The purpose of these arrangements is to provide a means

to minimize the potential of supply shortfalls that threaten public health and safety, and not to make up for inadequate performance by individual parties.

(c) Each Natural Gas Emergency Plan shall include provisions addressing:

(1) Emergency load shedding.

(2) Voluntary usage reductions, e.g., reducing space or water heating temperatures to levels specified by the NGDC.

(3) Mandatory usage reductions for certain customers consistent with section 59.73(c).

(4) Issuance of periodic reports to the media concerning the existing natural gas emergency.

(5) Notice to affected customers and NGSs of the expected initiation of emergency actions under section 59.73.

(6) Customer and NGS delivery requirements that apply during the term of emergency action under section 59.73, regardless of customer-specific usage reductions that arise or may arise from end-use curtailments.

(7) A procedure for focusing emergency measures to confined geographic or operational portions, segments or

zones of the NGDC system where a natural gas emergency exists.

(8) Procedures for establishing communications with electric system control area operators, if the NGDC provides gas service to an electric generation station(s).

(d) Each Natural Gas Emergency Plan should specify the procedures the NGDC shall use to provide notices to affected customers, their NGSs, and NGDCs. Notice to the public concerning usage reductions should be designed to avoid confusion in geographical areas served by more than one NGDC.

§ 59.73. Emergency Action.

(a) An emergency exists whenever the aggregate demand of firm service customers on an NGDC's system or confined segment of the system exceeds or threatens to exceed the gas supply or capacity that is actually and lawfully available to the NGDC to meet such demands, and such actual or threatened excess creates an immediate threat to the NGDC's system operating integrity with respect to Priority 1 customers as defined in § 59.73(j).

(b) If, in the sole judgement of the NGDC, there is sufficient time, the NGDC will use reasonable business and operational efforts to: (1) interrupt all interruptible services, (2) issue operational flow orders,

and (3) call for voluntary usage reductions by all customers before taking any action under subsection (c). The NGDC shall take the above three actions sequentially to the extent feasible.

(c) In the event of an emergency under subsection (a), the NGDC may require each commercial and industrial retail and transportation customer that is not a Priority 1 customer under 59.73(i) to reduce its consumption of gas. The reduction required shall be determined by the utility without regard to priorities of use, as necessary to minimize the potential threat to public health and safety. However, the minimum authorized usage shall not be lower than the minimum usage of firm service necessary for plant protection use. Where all other service has been curtailed except for Priority 1 service and the NGDC continues to be unable to meet Priority 1 requirements, the NGDC will exercise its judgment as to any further curtailment that may be necessary and will utilize measures designed to minimize harm to customers if curtailments to plant protection use are found to be necessary. Consistent with its responsibility to maintain system integrity at all times, the NGDC shall restore service as soon as practicable to any gas-fired electric generation facility that is deemed critical to electric system reliability by the electrical system's control area operator.

- (d) Mandatory reductions under subsection (c) shall be for a period specified by the NGDC until further notice. The NGDC may change a customer's authorized usage, upon notice, at any time during an emergency.
- (e) Mandatory reductions under subsection (c) shall be for a maximum duration of five business days unless extended by Commission order. As an alternative to extending mandatory reductions under subsection (c), the Commission may order the NGDC to initiate priority-based curtailments under subsection (f).
- (f) In determining whether to order the NGDC to initiate priority-based curtailments, the Commission shall examine whether the NGDC: (1) interrupted all interruptible services, (2) issued operational flow orders, and (3) called for voluntary usage reductions by all customers.
- (g) Upon issuance of an order to initiate priority-based curtailments, the NGDC shall provide all affected customers the maximum notice possible, via telephone, fax, or electronic data interchange, specifying the curtailment percentage of the customer's firm gas service and resulting allowance as may be the case.
- (h) Upon issuance of an order to initiate priority-based curtailments, the available gas supplies to the NGDC should be prorated among its

customers in accordance with the priorities of use listed below.

Customers in a higher priority will not be curtailed until all customers falling into a lower category have been restricted to plant protection use levels, unless operational circumstances or physical limitations warrant a different result. Where only a partial restriction of a classification is required, implementation should be pro rata.

The pro rata rationing, to the extent practical under the circumstances, will be based on a method set forth in the NGDC's tariff.

(i) Following are the priority categories, listed in descending order, pertaining to the curtailment of firm services:

Priority 1: Service for essential human needs use.

Priority 2: Firm services not included in essential human needs use.

(j) As part of its Natural Gas Emergency Plan, an NGDC may divide any or all of the priority of use categories in subsection (i) into subcategories.

§ 59.74. Utility liability.

(a) Each NGDC may restrict or discontinue service in accordance with Sections 59.71-59.75 without thereby incurring any penalty or liability for any loss, injury or expense that may be sustained by the

customer except when the restriction or discontinuation of service is as a result of the NGDC's willful or wanton misconduct.

(b) NGDC liability for actions taken pursuant to § 59.73, or to a regulation, policy statement, directive or order issued by the Commission or an emergency order issued by the Governor shall be governed by the following principles:

(1) If an NGDC appropriates natural gas during an emergency action, the NGDC will compensate the applicable entity, whether the customer or the customer's natural gas supplier, for the cost of lost, firm gas service. Such compensation, in the aggregate, shall equal but not exceed the greater of: (1) the city gate cost of the appropriated natural gas, including transportation charges up to the NGDC's city gate, or (2) the reasonable cost actually paid by the customer for delivered substitute energy, as documented to the NGDC. NGDCs may provide compensation in kind only at the discretion of the affected customer or natural gas supplier.

(2) The NGDC will have the right to discontinue service, for the duration of an emergency, to a customer that continues to take gas in violation of the rules found in this subchapter.

§ 59.75. Penalties for unauthorized takes.

The tariff, operating practices, and billing periods of the NGDCs and their suppliers differ significantly. Therefore, each NGDC is permitted to utilize its own appropriate billing periods for calculating pipeline transportation, storage service, and balancing or other penalties and its own tariffed procedure for imposing those penalties on customers who take gas service and NGSs who operate in a manner that is contrary to the rules and regulations of this chapter.

* * * * *

**CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND
GUIDELINES ON FIXED UTILITIES**

*** * * * ***

[GAS CURTAILMENT

§ 69.21. Priority of service.

(a) The available gas supplies to the utility should be allocated among its customers in accordance with the priorities of use listed below. Customers in a higher priority will not be curtailed until all customers falling into the lower classifications have been completely curtailed; where only partial curtailment of any one classification is required, implementation should be pro rata, that is, weighted in accordance with the base allotments of the customers within that classification. Following are the priority categories listed in descending order:

- (1) Residential and firm critical commercial essential human needs.
- (2) Firm small commercial requirements, excluding critical essential human needs requirements covered in paragraph (1), and firm large commercial and industrial requirements for plant protection.
- (3) Firm small industrial requirements.
- (4) Firm large critical commercial and industrial requirements, excluding firm critical commercial essential human needs requirements covered in paragraph (1).
- (5) Firm large noncritical commercial and industrial requirements other than requirements for boiler fuel use.

(6) Firm large noncritical commercial and industrial requirements for boiler fuel use.

(7) Contractually interruptible use.

(b) Definitions of “large” and “small” in subsection (a)(2)—(6) shall be formulated by the individual gas distribution utility based on peak day usage or such daily, monthly or annual volume level as may be selected by the utility. It is recognized by the Commission that gas utilities in this Commonwealth are a widely disparate group as to number, type, and size of customers, that is, as to “customer mix.” Uniform volumetric definitions of “small” and “large” would not take disparities of customer mix into account. Additionally, because the supply entitlement of an individual gas utility may be predicated on a peak day, daily, monthly, seasonal, or annual supply arrangement. Flexibility in volumetric definitions is likewise appropriate.

§ 69.22. Definitions.

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

Alternate fuel capability—The ability to use an alternate fuel whether or not the facilities for such use have actually been installed. For purposes of this definition, alternate fuel means any fuel other than natural gas, propane or other gaseous fuel.

Commercial Use—Gas usage by customers engaged primarily in the sale of goods or services including, but not limited to, consumption by office buildings,

institutions and governmental agencies. Commercial use shall not include use of gas for manufacturing or electric power generation.

Critical uses—Gas usage where natural gas, propane or other gaseous fuel is the only feasible form of energy due to its combustion characteristics, controllability, or chemical properties.

Essential human needs use—Gas usage by customers for service to any buildings where persons normally dwell including, but not limited to, apartment houses, dormitories, hotels, hospitals and nursing homes, as well as the use of natural gas by sewage plants.

Firm service—Service under schedules or contracts under which the utility is expressly or impliedly obligated to deliver specific volumes within a given time period or which anticipate no interruptions, but which may permit unexpected interruptions in case service to higher priority customers is threatened. A utility shall be deemed to be impliedly obligated to deliver specific volumes where such utility has by any means previously or presently established periodic allocations for its customers.

Industrial use—Gas usage by customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product including the generation of electric power.

Interruptible service—Service under schedules or contracts under which the utility expressly or impliedly reserves the option to interrupt or curtail deliveries.

Noncritical use—Gas usage where natural gas, propane or other gaseous fuel is not the only feasible form of energy, that is where the user has alternate fuel capability.

Plant protection use—inimum volumes of natural gas required to prevent physical harm to the plant facilities or danger to plant personnel when such protection cannot be afforded through the use of an alternative fuel. Plant protection requirements include volumes necessary for the protection of such material in process as would otherwise be destroyed, but does not include deliveries required to maintain production.

Residential use—Gas usage in a residential dwelling or unit for space heating, air conditioning, cooking, water heating or other domestic purposes.

§ 69.23. Base period volumes.

(a) To provide for the equitable allocation of gas available for sale to firm customers, base period volumes for peak day, daily, monthly, seasonal (winter and summer), or annual periods, as the utility may select, shall be established for each customer whose usage exceeded such peak day, daily, monthly, seasonal or annual volume level during the base period of 24 months from January 1, 1971, through December 31, 1972, except as modified in this section.

(b) The base period volume shall be further divided by the utility into the base volumes for each priority of use listed in § 69.21 (relating to priority of service).

For the purpose of breaking down base period volumes into their appropriate

curtailment priority category, each affected commercial and industrial customer shall furnish such historic consumption and equipment data as the utility may require.

(c) Base period volumes shall be adjusted in accordance with the following:

(1) To recognize abnormalities in plant operations during the base period as well as deletions or approved installations of equipment during or subsequent to the base period.

(2) To include volumes of gas equivalent to volumes conserved during the base period when the customer converted gas burning equipment to alternate fuel in anticipation of future curtailment.

(3) To exclude volumes of gas consumed by equipment for facilities installed after January 1, 1970, without the approval of the utility as well as volumes consumed under temporary authorization.

(d) If a gas utility has entered into a contract specifying an annual volume of gas to be delivered, and that volume is less than the calculated base period volume, the annual contractual volume shall be deemed to be the annual base period volume.

(e) Some Commonwealth gas utilities already have existing curtailment plans in which the base period volume concept is an integral part. Those utilities are permitted to substitute that base period for the base period outlined in this section, provided that the procedure used to establish base period volumes is explained in the curtailment policy to be filed with the Commission. Additionally, if any gas

utility presently has established peak day, daily, monthly, seasonal or annual allocations, as the case may be, for certain customers and has previously notified these customers of such allocations, then that utility will be permitted to use these allocations as the base period volumes for such customers.

§ 69.24. Gas shortage curtailment.

(a) Base period volumes shall be used as the basis for determining the authorized entitlement of each customer in the event of curtailment. Authorized entitlement shall be determined by multiplying the customer's base period volume for the priority to be curtailed by the ratio of the total gas available for that priority category to the total of all base period volumes of all customers in that priority category.

(b) If, in the judgment of the utility its supply of gas is insufficient to meet the base period volume requirements of all customers on a continuing basis, or when continued delivery of gas to customers would prevent the injection of gas into underground storage pools for the protection of winter supply, deliveries may be curtailed in accordance with the seven priorities of service outlined in § 69.21 (relating to priority of service).

(c) If any curtailment for § 69.21(6) is in effect, all customers covered by § 69.21(4) and (5) shall be limited to the lesser of their base period volumes or their authorized entitlement.

(d) Maximum possible notice of a gas shortage curtailment or of a change in curtailment level shall be given. If such notice is by telephone, then it must be followed by a written notice to the customer, specifying the curtailment percentage of the customer and resulting peak day, daily, monthly, seasonal, or annual authorized entitlement as the case may be.

(e) Each gas utility may curtail or discontinue gas service in accordance with this subchapter without thereby incurring any liability for any loss, injury, or expense that may be sustained by the customer.

§ 69.25. Penalty provisions for excess takes.

(a) The tariffs, operating practices and billing periods of the Commonwealth distributors and their suppliers differ significantly. Therefore, each utility is permitted to utilize its own appropriate billing periods for calculating over-run penalties and its own procedure for imposing penalties and for recovering over-run volumes if desired, provided that any deviations from the guidelines listed in subsection (b) concerning penalties and allowable over-run provisions, are fully explained and justified in supporting material submitted with the curtailment policy to the Commission.

(b) The following is a guideline for assessment of penalties for unauthorized over-runs of allocated volumes:

(1) *General.* Generally, the following provisions shall apply:

(i) The provisions of these or any other penalty sections do not serve to reduce any charge, assessments, or penalties otherwise payable or applicable under provisions of any effective rate schedule or contract.

(ii) Penalties shall be assessed on over-run volumes in accordance with the following:

(A) In excess of 103% of the authorized entitlement when the period concerned is daily, monthly, or seasonal as described in this subsection.

(B) In excess of 101% of the authorized entitlement when the period concerned is 12 months and the utility invokes an annual as well as a daily, monthly, or seasonal penalty.

(2) *Winter penalty clause.* The winter penalty clause shall be as follows:

(i) If at the end of the five month period ending with the March billing period, a customer has exceeded the sum of its monthly authorized entitlement for such a period, that customer shall pay on demand a penalty according to the following schedule:

<i>Actual Usage as Percentage of Total Monthly Authorized Entitlements</i>	<i>Penalty for Excess Takes (in dollars per Mcf)</i>
Greater than 103% but not in excess of 110%	10
Greater than 110% but not in excess of 125%	20

(ii) There shall be excluded from the volumes subject to penalty under this paragraph, volumes for which the buyer has previously been penalized under overruns of emergency curtailment. Reference should be made to § 69.27 (relating to emergency curtailment).

(3) *Summer penalty clause.* The summer penalty clause shall be as follows:

(i) If at the end of the 7-month period ending with the October billing month, a customer has exceeded the sum of its monthly authorized entitlements for such period, that customer shall pay on demand a penalty according to the following schedule:

<i>Actual Usage as Percentage of Total Monthly Authorized Entitlements</i>	<i>Penalty for Excess Takes (in dollars per Mcf)</i>
Greater than 103% but not in excess of 110%	10
Greater than 110% but not in excess of 125%	20
Greater than 125%	30

(ii) There shall be excluded from the volumes subject to penalty under this paragraph, volumes for which the buyer has previously been penalized under over-runs of emergency curtailment.

(4) *Yearly penalty clause.* The yearly penalty clause shall be as follows:

(i) If at the end of the 12-month period ending with the October billing month, a customer has exceeded the sum of its monthly authorized entitlements for such 12-month period, that customer shall pay on demand a penalty according to the following schedule:

<i>Actual Usage as Percentage of Annual Authorized Entitlements</i>	<i>Penalty for Excess Takes (in dollars per Mcf)</i>
Greater than 101% but not in excess of 110%	10
Greater than 110% but not in excess of 125%	30
Greater than 125%	50

(ii) There shall be excluded from the volume subject to penalty under this paragraph, volumes for which the buyer has previously been penalized during such 12-month period under winter or summer over-runs or emergency curtailments.

(5) *Availability of excess gas.* Should there be an availability of excess gas, the following provisions shall apply:

(i) If in the judgment of the utility, sufficient gas supply is available to permit deliveries in addition to the monthly authorized entitlement in any month, the utility shall provide all buyers with as much advance notice as possible of the amount of such additional gas anticipated to be available. Such gas shall be apportioned by the utility to all customers of the highest priority being curtailed, on the basis of the total of the base period volumes for all buyers in that priority for that month.

(ii) To the extent that a customer has exceeded the sum of its authorized entitlements for any period, penalties shall not be assessed for any excess volumes authorized pursuant to the provisions of this paragraph.

§ 69.26. Disposition of penalties.

The following provisions for disposition of penalties are suggested as guidelines; however, the Commission will permit deviations only for good cause shown. In those instances where circumstances dictate different disposition of penalties, utilities are directed to formulate and submit for Commission approval a method of distributing, with interest, the excess penalty receipts to their customers.

(1) As of December 31 of each year, the utility shall subtract the total of all over-run penalties paid that year to the utility's suppliers, from penalties collected that year from customers. The utility shall then distribute among its curtailed customers who did not incur over-runs all penalties collected in excess of those paid by the gas utility to its suppliers.

(2) To determine the amount of reimbursement due a customer, the total amount to be redistributed shall be divided by the total volume of sales during the 12-month period to all customers eligible for reimbursement. This quotient shall represent the factor, which when multiplied by an eligible customer's total purchase volume during the 12-month period will equal the amount to be credited to that customer. However, no reimbursement shall be made to customers who have terminated service during the year.

(3) The utility should specify a reasonable minimum for the amount of penalties that will be distributed, below which excess penalties shall be retained until the distributable amount is accumulated. The utility shall make periodic reports to the Commission containing itemized statements, status of penalty accounts, and the extent and nature of disbursements from such accounts made during that period.

§ 69.27. Emergency curtailment.

(a) If the utility is unable to fulfill the daily requirements of all its customers because of reasons unrelated to long range supplies, the utility may require each large commercial and industrial customer to reduce its consumption of gas. The reduction required shall be determined by the utility without regard to priorities of use; however, the authorized volume shall not be lower than the minimum volume necessary for the prevention of damage to plant equipment.

(b) The utility shall specify in the notice of the emergency curtailment, the authorized consumption for a specified period or until further notice. An emergency curtailment may be made after oral notice to the customer, effective when so given, but such oral notice must be confirmed in writing within 48 hours. The Commission shall be notified immediately of the declaration of an emergency situation.

(c) If a customer exceeds its authorized consumption during a period of emergency curtailment, then the customer shall pay a penalty according to the following schedule:

<i>Actual Usage as a Percentage of Emergency Authorized Consumption</i>	<i>Penalty for Excess Takes (in dollars per Mcf)</i>
Greater than 103% but not in excess of 110%	10
Greater than 110%	25]

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PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA

RECEIVED

2001 JAN 31 AM 11:19

JOHN M. QUAIN
CHAIRMAN

January 31, 2001

REGULATORY
REVIEW COMMISSION

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

Re: L-00000151/57-218
Proposed Rulemaking
Natural Gas Emergency Plans and
Emergency Actions
52 Pa. Code, Chapter 59

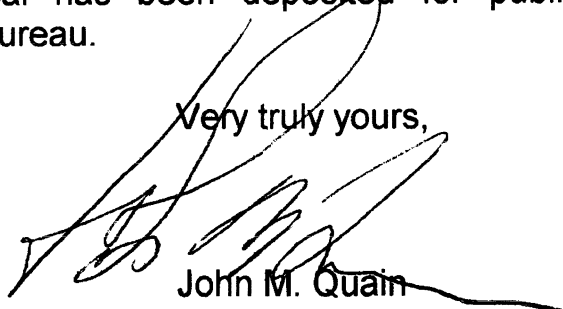
Dear Chairman McGinley:

Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15), the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this proposal is to set forth procedures the Commission intends to follow in managing natural gas emergencies in order to maintain gas service and minimize service disruptions. The contact persons are Dr. Ahmed Kaloko, Bureau of Conservation, Economics and Energy Planning, 787-2139 and David Screven, Law Bureau 787-2126.

The proposal has been deposited for publication with the
Legislative Reference Bureau.

Very truly yours,



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
Assistant Counsel Screven
Regulatory Coordinator DelBiondo
Dr. Kaloko
Mr. Zogby

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-00000151/57-218

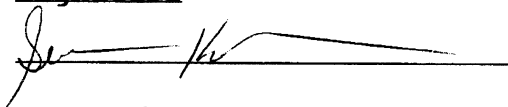
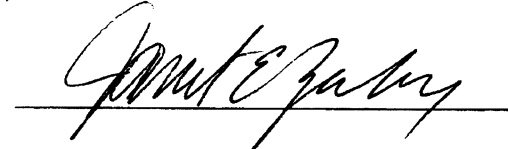
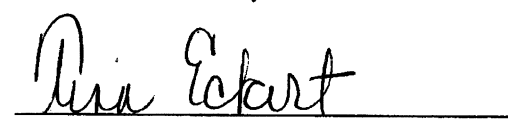
Subject: Natural Gas Emergency Plans and Emergency Actions

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
1/31/01		HOUSE COMMITTEE Consumer Affairs
1/31/01		SENATE COMMITTEE Consumer Protection and Professional Licensure
1/31/01		Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau