

Original: 2172

IRRC

From: Dan Regan [Dregan@ENERGYPA.ORG]
Sent: Monday, April 09, 2001 3:26 PM
To: IRRC@irrc.state.pa.us
Subject: Public Utility Commission: Regulations Concerning Natural Gas Emergency Plans and Emergency Actions



20010323
Emergency Planning Letter

Per my discussion this morning with Fiona Wilmarth, a copy of the Energy Association of Pennsylvania's reply comments in the gas emergency docket is attached for your review and files.

Please let me know if I can be of further assistance.

Dan Regan
Vice President: Regulatory Affairs
Energy Association of Pennsylvania
800 North Third St. #301
Harrisburg, PA 17102
717-901-0631
Fax: 717-901-0611

<<20010323 Emergency Planning Letter Comment (DRAFT).doc>>

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COMMISSION

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UTILITY
REVIEW COMMISSION



see below

March 27, 2001

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Keystone Building, Second Floor
Harrisburg, Pa

VIA HAND DELIVERY

Re: Docket No. L-00000151: Natural Gas Emergency Plans and Emergency Actions

Dear Mr. McNulty:

Pursuant to the Proposed Rulemaking Order adopted by the Commission on July 20, 2000 and published in the February 10, 2001 issue of the *Pennsylvania Bulletin* (31 Pa.B. 805), the Energy Association of Pennsylvania (the "Energy Association"), on behalf of its natural gas distribution company ("NGDC") members, submits this letter for consideration in lieu of formal reply comments. Per Ordering Paragraph 6, *id.* at 806, the original and 15 copies of this letter are tendered for filing, and, concurrently, a copy is being served on the Commission's Bureau of Conservation, Economics and Energy Planning per the designated contact person. As this letter does not constitute formal comments, it does not appear necessary to submit a diskette containing the text in electronic format. If necessary, however, the Energy Association will provide the text by electronic mail on request (contact dregan@energypa.org).

General Comment

Consistent with the Commission's Well-Established Policies Favoring Working Groups and Collaborative Policy Development, the Commission Should Reject the Office of Consumer Advocate's Attempt to Reargue Matters That Were Discussed and Settled in the Collaborative Process.

As the Commission notes, these proposed regulations are the result of a collaborative process of give and take among the different segments of the natural gas community. One of the cornerstones of the collaborative process is the parties agreement to abide by whatever compromise is reached. Parties may agree to disagree, and even agree that comments may be submitted on specific, pre-designated points, but they should not be allowed to obtain the benefits of a compromise and then file comments to take a second bite of the apple.

As the Commission notes, the Office of Consumer Advocate ("OCA") was an active party throughout this docket, both at the working group level and within the smaller group that negotiated the specific language appearing in the proposed regulations. Consistent with the spirit of collaboration, every party but one abided by the compromise language and refrained from filing initial comments. Only one party, OCA, felt it was not bound by the provisions that were agreed to by all, including itself.

The Energy Association respectfully submits that OCA's comments should be rejected. It would be one thing if OCA's suggestions amounted to modest, technical corrections which advance and clarify the intent of the collaborative and which honestly could be characterized as nonobjectionable. The Energy

Mr. James J. McNulty, Secretary
Docket No. L-0000151
March 27, 2001
Page 2

Association's predecessor made precisely this type of suggestion in comments addressing the Commission's policy statement on maintaining natural gas safety and reliability. *Maintaining Safety and Reliability for Natural Gas Supply and Distribution Service*, 30 Pa.B. 6358, 6359 (2000) (Pennsylvania Gas Association successfully suggesting one of the policy statement's definitions be amended to conform to the way the same term was defined in another Commission proceeding). In the docket at hand, such a suggestion could have been made with respect to including "residential use" as a defined term. As it turns out, that term does not appear anywhere else in the regulations, and one could reasonably suggest deleting it as an inadvertent vestige from past drafts.

OCA's comments, in contrast, go far beyond minor, technical matters. For example, its comment regarding "residential use" is that the phrase should be inserted as an addition to the class of priority 1 uses. "Comments of the Office of Consumer Advocate," page 3. The substantive effect of OCA's suggestion is not totally clear, and OCA does not explain why its suggested wording would add anything to the regulations given the types of consumption already falling within the definition of "essential human needs use." Nevertheless, it is certainly not the kind of change that one can assume would have been unanimously adopted by the members of the collaborative.

The Energy Association therefore respectfully suggests the Commission reject OCA's comments and uphold the work product of the industry collaborative. To do otherwise would be to embrace the notion that collaborative work products are simply opening positions, which parties may attack for whatever gain may result, and once that notion is embraced, parties may well question whether there is any value to participating in collaboratives in the first place.

Specific Comments

1. *Section 59.72(b) Should Be Adopted as Proposed Because It Is Impossible to Require a Regulated Party to Contract with an Unregulated One.*

As proposed Section 59.72(b) would encourage NGDCs to arrange for customers to agree to reduce or discontinue service so that forced service reductions can be avoided or minimized. OCA would rephrase this provision to require NGDCs to make a reasonable attempt to enter into such arrangements. The obvious question (and one that cannot be resolved no matter what an NGDC does) is: What constitutes a reasonable attempt? Because the other parties to these potential arrangements are not subject to the Commission's jurisdiction, there is no legal mechanism to force them to do anything. What happens if these parties simply do not want to enter these arrangements, or want to do so at costs that would not pass commercial or regulatory muster? Under OCA's proposal, NGDCs would be forever subject to regulatory second guessing. If an arrangement is not made, NGDC could find itself having to defend whether it was reasonable in its attempt; and if an arrangement is made, the NGDC could find itself having to defend whether the *quid pro quo* it offered was unreasonably generous.

For these reasons and others, the language appearing in Proposed Section 59.72(b) was carefully considered and crafted by the working group. OCA should not be heard to disturb that language now.

2. *OCA's Comment Regarding Proposed Section 59.72(c) Is Apparently Erroneous as Its Suggested Language Already Appears in the Proposed Text.*

OCA suggests amending Proposed Section 59.72(c) to change "should" to "shall." But "should" does not appear in Proposed Section 59.72(c) or any of its subparts, so there is no basis for addressing the matter further.

3. *OCA's Suggested Changes to Proposed Section 59.72(d) Should Be Rejected as Inappropriate Attempts to Prescribe the Method, Timing and Wording of Customer Notices to a Level of Detail*

Beyond That Agreed to by the Members of the Working Group.

Proposed section 59.72(d) reads the way it does because the members of the working group recognized the diverse (and ever changing) array of means that can be used to notify customers; the fact that different means of notification may be appropriate under different circumstances; and the impossibility of predetermining which means would be appropriate in the throes of a specific emergency situation. Even so, the notices addressed in Proposed section 59.72(d) will, to a significant extent, be governed by the NGDC's emergency plan, and under Section 59.72(c), these plans must contain provisions addressing emergency load shedding, voluntary usage reductions, the imposition of mandatory usage reductions, reports to the media, and, most important of all, customer notification in the event the NGDC expects to initiate emergency action. Proposed Section 59.72(c)(1)-(5). The level of micromanagement OCA suggests was not approved by the working group and would be unworkable in practice. OCA's suggestions should be rejected accordingly

4. *While Proposed Section 59.73(h) Could Be Reworded both to Clarify How Service Curtailment Will Be Implemented and to Tie the Curtailment Process More Closely to the NGDC Tariffs, OCA's Suggestions Contradict the Working Group's Consensus and Incorrectly Presume that a Pro Rata Allocation of Methane Molecules on a Customer-by-Customer Basis Can Be Accomplished as a Practical Matter.*

Proposed Section 59.73(h) reads as follows:

(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 following priorities of use:

(1) 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.

(2) Where only a partial restriction of a classification is required, implementation **should** be pro rata.

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

(emphasis supplied).

OCA would change the two highlighted "shoulds" to "shall"; in effect, making pro rata curtailment mandatory. In drafting these provisions, however, the members of the working group recognized that while pro rata curtailment is desirable as an objective, it is impossible to achieve as a practical matter. Given present technology, there is simply no way to ensure that every member of a curtailment priority category (or sub-category) will in fact receive only its pro rated share of available natural gas molecules.

Accordingly, the Energy Association supports keeping the working group language as proposed. However, if the Commission believes some revisions are necessary, the Energy Association suggests amending Section 59.73(h) as follows:

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Mr. James J. McNulty, Secretary
Docket No. L-00000151
March 27, 2001
Page 4

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(additions in bold, deletions stricken through).

These changes, unlike OCA's, reflect the operating realities that motivated the working group to write Section 59.73(h) as it appears in the proposed Rulemaking Order.

The Energy Association appreciates this opportunity to comment, and urges the Commission to consider the points detailed above as it continues its deliberations.

Respectfully submitted,

Dan Regan
Vice President: Regulatory Affairs

cc: Dr. Z. Ahmed Kaloko, Director, Bureau of CEEP (VIA HAND DELIVERY)
Tanya J. McCloskey, OCA (VIA FIRST CLASS MAIL)
Energy Association: Gas Regulatory Committee



RECEIVED

800 North Third Street, Suite 301 • Harrisburg, Pennsylvania 17102
2001 APR - 9 AM 11:30
Telephone (717) 901-0600 • Fax (717) 901-0611 • www.energypa.org

INDEPENDENT REGULATORY
REVIEW COMMISSION

COPY

Business Reply To:

see below

March 27, 2001

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Keystone Building, Second Floor
Harrisburg, Pa

VIA HAND DELIVERY

Re: Docket No. L-00000151: Natural Gas Emergency Plans and Emergency Actions

Dear Mr. McNulty:

RECEIVED
01 MAR 27 PM 2:31
SECRETARY'S BUREAU

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Mr. James J. McNulty, Secretary
Docket No. L-00000151
March 27, 2001
Page 4

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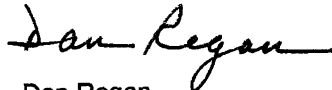
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Respectfully submitted,



Dan Regan
Vice President: Regulatory Affairs

cc: Dr. Z. Ahmed Kaloko, Director, Bureau of CEEP (VIA HAND DELIVERY)
Tanya J. McCloskey, OCA (VIA FIRST CLASS MAIL)
Energy Association: Gas Regulatory Committee

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE
555 Walnut Street 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

COPY

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
E-Mail: paoca@ptd.net

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10

Original: 2172

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OFFICE OF CONSUMER ADVOCATE

March 12, 2001

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

Re: Proposed Rulemaking Order for Natural Gas
Emergency Plans and Emergency Actions
Docket No. L- 00000151

Dear Mr McNulty:

Enclosed please find for filing an original and 15 copies of the Office of Consumer Advocate's comments relating to Natural Gas Emergency Plans and Emergency Actions.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Tanya J. McCloskey
Senior Assistant Consumer Advocate

Enclosures

cc: All parties of record
Daniel Regan, Pa. Energy Association

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

On February 10, 2001, the Proposed Rulemaking Order of the Pennsylvania Public Utility Commission (PUC) relating to Natural Gas Emergency Plans and Emergency Actions was published in the Pennsylvania Bulletin. *Pennsylvania Bulletin, Vol.31, No.6*. The proposed Rulemaking sets forth the Commission's proposed regulations for managing natural gas emergencies in order to maintain or promptly restore gas service and minimize service disruptions for essential needs customers. This proposal addresses emergencies which are defined as situations where available firm supply or capacity is not sufficient to meet firm service requirements. This excludes the interruption or restoration of interruptible customers.

The Office of Consumer Advocate (OCA) strongly supports the promulgation of these regulations. The OCA has a few concerns regarding these proposed additions to Chapter 59. Our concerns reflect issues similar to those we raised in response to the earlier Gas Curtailment Guidelines at §§69.21-27. Specifically, the OCA submits that the critical nature of these proposed regulations makes it necessary to frame requirements in clear and unambiguous language. Mandatory language is preferable for addressing emergencies.

§59.72(b) - Natural Gas Distribution Companies (NGDCs) should be obligated to attempt to make contractual or informal arrangements with market participants. We believe that all reasonable preparations should be made for emergencies.

, NGDCs are encouraged to make contractual or informal arrangements...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 OCA submits that the language in this section cannot be expected to produce the best possible result. The OCA submits that the words “are encouraged” should be changed to “shall make a reasonable effort.” This strengthens the requirement substantially without making it unrealistic.

§59.72(c) - This Section also does not use specific, directive language. The uncertainty caused by the less specific language could produce unpredictable and potentially ineffective results. The OCA submits that the word “should” in this paragraph be changed to “shall”.

§59.72(d) - Similarly, the OCA proposes that the word “should” be changed to “shall” in §59.72(d). Emergency procedures ought to be specified. Without this mandatory language, neither the Commission nor customers can know how emergencies will be handled. This change will make notice provisions available for PUC review when plans are filed consistent with §59.72(a).

§59.72(d) Timely notification will insure that customers have the greatest opportunity to respond to expected or potential curtailment. Language should be added to this section specifying that the specified notice procedures will be initiated as quickly as is reasonably possible. The OCA suggests the following: “Notice shall be given as quickly as is reasonably possible after the existence of emergency conditions and the appropriate responses are determined by the NGDC.”

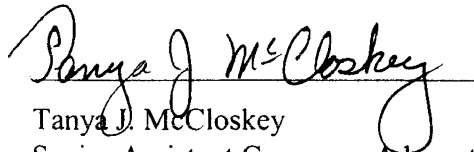
§59.72(d) This section should be modified to require that notice be consistent with the Commission’s existing Plain Language Policy. Clarity is a fundamental of effective communication in emergencies. We suggest this language at the end of this section: “All notices shall be prepared consistent with the Commission’s Plain Language Policy.”

§59.73(h) - Proration of available gas supplies in an emergency is a critical process. The OCA generally agrees that the proration hierarchy specified in §59.73(h) is reasonable and provides adequate flexibility for operating contingencies. Therefore NGDCs should be required to follow this procedure and the language in this section should be changed from “should” to “shall”. Likewise, the language in §59.73(h)(2) should also be mandatory.

§59.73(h)(3)(i)(1) Consistent with the consensus in the Interim Guidelines Working Group, the definition of Priority 1 should be modified to: “Service for essential human needs and any other residential use.” This sets all residential customers are on a par with other essential human needs customers.

WHEREFORE, with these modifications, the OCA supports the Commission’s Proposed Rulemaking. The Proposed Rulemaking, as modified by the OCA to provide clearer direction to NGDCs, provides a strong foundation for ensuring good management of emergencies and minimum impact when emergencies occur.

Respectfully submitted,


Tanya J. McCloskey
Senior Assistant Consumer Advocate

Counsel for:
Irwin A. Popowsky
Consumer Advocate

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

Dated: March 12, 2001
62585

CERTIFICATE OF SERVICE

Re: Proposed Rulemaking Order for Natural Gas
Emergency Plans and Emergency Actions
Docket No. L-00000151

I hereby certify that I have this day served a true copy of the foregoing document, OCA comments relating to Natural Gas Emergency Plans and Emergency Actions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 12th day of March, 2001.

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

David Screven
Law Bureau
PA Public Utility Commission
Room 203, North Office Bldg.
P. O. Box 3265
Harrisburg, PA 17105-3265

Diane Warriner
Room 628 Main Capitol Bldg.
Harrisburg, PA 17120-2036

Delia Stroud, Asst. General Counsel
PECO Energy Co.
2301 Market Street., S23-1
Philadelphia, PA 19101

Abby Pozefsky,
Senior Vice President & General Counsel
Philadelphia Gas Works
Legal Department
800 W. Montgomery Avenue
Philadelphia, PA 19122

Laureto Farinas, Senior Attorney
Philadelphia Gas Works
Legal Department
800 W. Montgomery Avenue
Philadelphia, PA 19122

Anthony C. Adonizio, Esq.
250 North 24th Street
Camp Hill, PA 17011

T. W. Merrill, Jr.
Competitive Energy Strategies Co.
Foster Plaza 10
Suite 200
680 Anderson Drive
Pittsburgh, PA 15220

Mr. Robert M. Hovanec,
Vice President and Chief Financial Officer
T. W. Phillips Gas and Oil Co.
205 North Main Street
Butler, PA 16001

John M. Monley
Level 12
Williams-Transco
2800 Post Oak Boulevard
Houston, TX 77251-1396

Louis D'Amico, Executive Director
The Independent Oil & Gas Association of PA
234 State Street, Suite 102
Harrisburg, PA 17101-1149

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

Michael Martin, Esq.
Columbia Gas of Pennsylvania, Inc.
200 Civic Center Drive
P. O. Box 117
Columbus, OH 43216

Equitable Gas Company
Suite 2000
Allegheny Center Mall
Pittsburgh, PA 15252

James Belack, Esq.
Carnegie Natural Gas Company
800 Regis Avenue
Pittsburgh, PA 15236

National Fuel Gas Distribution Corp.
10 Lafayette Square
Buffalo, NY 14203

Susan George, Esq.
The Peoples Natural Gas Company
625 Liberty Avenue
Pittsburgh, PA 15222

John Hilyard, Jr., Mgr.
Penn Fuel Gas Inc.
55 South Third Street
Oxford, PA 19363

Bernard A. Ryan, Jr., Esq.
Office of Small Business Advocate
Suite 1102, Commerce Bldg.
300 North Second Street
Harrisburg, PA 17101

David Beasten
100 Kachel Boulevard
Suite 400
Green Hills Corporate Center
Reading, PA 19607

Carl Meyers
UGI Energy Services, Inc.
Vice President and General Manager
1100 Berkshire Boulevard
Suite 305
Wyomissing, PA 19610

John F. Kell, Jr.
Vice President Financial Services
PG Energy Inc.
One PEI Center
Wilkes-Barre, PA 18711-0601

Steven Huntoon
Conectiv Energy
P. O. Box 6066
Newark, NJ 19714-6066

Kenneth D. Archer, Sr. V.P.
Pike County Light & Power Co.
Pearl River, NY 10965

North Penn Gas Company
78 Mill Street
Port Allegheny, PA 16743

Terry Hunt, President
Allied Gas Co.
55 South Third Street
Oxford, PA 19363

Lena G. Hillwig
Andreassi Gas Company
1073 Kittanning Pike
Chicora, PA 16025

Robert E. Hogue, V.P.
Chartiers Natural Gas Co., Inc.
203 Henry Way
Jeannette, PA 15644-9680

Dwight W. Stover
CRG, Inc.
R.D. #3
Box 56
Knox, PA 16232

Greenridge Oil, Inc. of PA.
R.D. #2
New Freeport, PA 15352

Herman Oil & Gas
1095 Herman Road
Butler, PA 16001

Honesdale Gas Co.
350 Erie Street
Honesdale, PA 18431

Edward L. McCusker, V.P.-Treas.
Interboro Gas Co.
55 South Third Street
Oxford, PA 19363

Samuel M. Scott
Jefferson Gas Company
420 Blvd. of the Allies
Pittsburgh, PA 15219

Lori Larkin
Larkin Oil & Gas Co.
P. O. Box 58
Callensburg, PA 16213

Maple Grove Enterprises, Inc.
R. D. 1
Rimersburg, PA 16248

Charles E. Myers
Myers Gas Co.
Main Street
Kennerdell, PA 16374

Nido's Limited, Inc.
144 Winterwood Drive
Butler, PA 16001

Samuel H. Miller
North East Heat & Light Co.
10700 West Main Road
North East, PA 16428

James W. Carl, V.P.
NUI Corporation
T/A PA & Southern Gas Co.
One Elizabeth Plaza
Union, NJ 07083-1975

John Habjan, Pres.
Pine-Roe Natural Gas Co., Inc.
P. O. Box 146
Clarion, PA 16214

Anna Pearl Riemer
Riemer, Herman, Gas Co.
Riemer, Anna Pearl T/A
134 Winfield Road
Sarver, PA 16055

Frank Novosel
Sergeant Gas Company
14 Greeves Street
P. O. Box 699
Kane, PA 16735

Siegel Gas Company
(Owned by the Gourleys)
R.D. 2-Box 142
New Bethlehem, PA 16242

William H. Newhart, Jr.
Walker Gas & Oil Company, Inc.
P. O. box K
Bruin, PA 16022

Robert E. Craig, President
Wally Gas Co.
P. O. Box 191
Chicora, PA 16025

Joelle K. Ogg, Esq.
John & Hengerer
Suite 600
1200 17th Street, N.W.
Washington, DC 20036

Richard Fox, President
Claysville Natrual Gas Co.
231 Main Street
P. O. Box 477
Claysville, PA 15323

Ed Dunmire
Dunmire Gas Co.
120 Pine Hill Road
Kittanning, PA 16201

Bennie G. Landers, President
Kaylor Natural Gas
P. O. Box 466
East Bradley, PA 16028

Ronald A. Baker
R.A. Baker Gas Co.
R.D. 1, Box 87
Worthington, PA 16262

Dwight D. Stover, President
CRG Inc.
R.D. 3 Box 56
Knox, PA 16232

W. Kevin O'Donnell, Esq.
Can Do Inc.
One South Church street #200
Hazelton, PA 18201

Brian A. Dingwall
United Gas Management Inc.
2909 West Central Ave.
Suite 102
Toledo, OH 43606

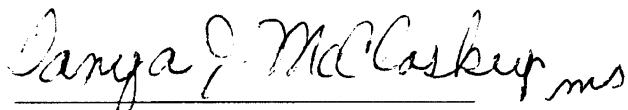
Gary Jeffries, Esq.
CNG Retail Services Corp.
One Chatham Center
Suite 700
Pittsburgh, PA 15219

Daniel Regan
PA Gas Association
800 N Third Street
2nd Floor
Harrisburg, PA 17102

Bernard Ryan, Esquire
Commerce Building Suite 1102
300 North Second Street
Harrisburg, PA 17101

Charles Hoffman Esquire
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

William Hall
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

A handwritten signature in cursive script that reads "Tanya J. McCloskey ms". The signature is written in black ink and is positioned above a horizontal line.

Tanya J. McCloskey
Senior Assistant Consumer Advocate

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

59532



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

Original: 2172

March 14, 2001

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

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INDEPENDENT REGULATORY REVIEW COMMISSION

Dear Chairman McGinley:

Enclosed is one (1) copy of comments received regarding the above regulation as required under Section 5(10)(b.1) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19).

Very truly yours,

Barbara Bruin
Executive Director

Comments submitted by:

OCA

cc: Chief Counsel Pankiw
Regulatory Coordinator DelBiondo
Assistant Counsel Screven
Dr. Kaloko