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Subject: Docket No. L-00070186 - Equitable Gas Comments

Attached are Equitable Gas Company's Comments in the above matter as they are being filed with Secretary McNulty this afternoon. Please reply or call if you have any difficulty opening the files or if you have any questions.

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**Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Rulemaking Relating to Universal :
Service and Energy Conservation Reporting :
Requirements, 52 Pa. Code §§ 54.71 - 54.78 : **Docket No. L-00070186**
(electric); §§ 62.1-62.8 (natural gas) and :
Customer Assistance Programs, §§ 76.1 – 76.6 :

**COMMENTS OF
EQUITABLE GAS COMPANY,
A DIVISION OF EQUITABLE RESOURCES, INC.**

I. INTRODUCTION

On December 15, 2005, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) initiated an investigation at Docket No. M-00051923 for the purpose of developing general standards for appropriately funding universal service programs including Customer Assistance Programs (“CAPs”). The Order solicited comments on cost recovery mechanisms and CAP design elements, including, but not limited to, consumption limits, maximum energy burdens, maximum CAP benefits, etc. Interested parties, including Equitable Gas Company (“Equitable” or “Company”), filed comments.

On December 18, 2006, the Commission entered its Final Investigatory Order at Docket No. M-00051923 stating that it was initiating a rulemaking proceeding to amend 52 Pa. Code § 54.74 and § 62.4 to establish a triennial review process that would take the form of a tariff filing and address CAP program funding, design criteria and cost recovery on a case-by-case basis. The

Commission further stated that the proposed rulemaking would address surcharge adjustments, the types of costs to be included in the surcharge as well as the recognition of CAP savings, if any, as offsetting some of these costs and also address how utilities would provide for the application of LIHEAP grants. Additionally, the Commission stated that the proposed rulemaking would address the issues of default provisions for failure to comply with program rules and timely collections.

On September 4, 2007, the Commission entered an Order at Docket No. L-00070186 in which it proposed amendments to 52 Pa. Code Chapters 54 and 62 and the addition of a new Chapter 76 to Title 52. The Order was published in the Pennsylvania Bulletin on February 9, 2008 with comments due by April 9, 2008. Subsequently, by letter notice dated April 4, 2008, the Commission extended the comment period through April 18, 2008.

II. COMMENTS

Equitable is pleased to have the opportunity to comment on the Proposed Rulemaking Order at Docket No. L-00070186. As a natural gas distribution company, Equitable will comment on the proposed revisions to 52 Pa. Code §§ 62.1 – 62.8; however, its comments apply to similar sections of 52 Pa. Code §§ 54.71 – 54.78. The Company will also comment on the proposed promulgation of 52 Pa. Code §§ 76.1 – 76.6, Customer Assistance Programs. The Company's comments are presented for discussion purposes and without prejudice to any position Equitable might take in any subsequent proceeding or proceedings involving these or any other matters.

52 Pa. Code §§ 62.1 – 62.8
Universal Service and Energy Conservation Reporting Requirements

§ 62.2 Definitions

- To the extent that the words are the same, the definitions in this section should be consistent with the Policy Statement on Customer Assistance Programs at 52 Pa. Code §§ 69.261 – 69.267 and the proposed regulations at 52 Pa. Code §§ 76.1 – 76.6.
 - For example, the proposed changes to the definition of “CAP – Customer Assistance Program” are different in this section and § 69.262. Also, § 69.262 has a definition for LIHEAP while the Universal Service Reporting Requirements refer to LIHEAP as Energy Assistance Benefits.
- Add “CAP credits” to the definition table of § 54.72 consistent with the definition in § 62.2.
- Under the definition of Payment Troubled, the Company recommends deleting “or has received a termination notice.” The receipt of a termination notice does not, in and of itself, indicate a payment-troubled customer. For example, the customer may have missed one or two payments on his/her Budget Plus plan, received a termination notice and paid the overdue plan amount which stopped the termination process. This customer may fulfill the plan (a successful payment arrangement).

§ 62.4(a) Plan Submission

- Under (a)(1), add language that indicates that the tariff filing should be adjudicated within six months from the date of filing. Equitable’s most recent Universal Service and Energy Conservation Plan for the 2007-2009 period was filed on May 31, 2006. A

Tentative Order at Docket No. M-00061959, adopted on August 17, 2006, approved the 2007-2009 Plan with certain modifications and provided interested parties the opportunity to submit comments on the proposed revisions discussed in the Tentative Order. On October 6, 2006, Equitable filed a Petition at Docket No. P-00062240 for Approval to Increase the Level of Funding for its Customer Assistance Program. The 2007-2009 Plan at Docket No. M-00061959 and Petition at Docket No. P-00062240 were consolidated by the Commission by Orders entered December 26, 2006. The Commission approved a settlement of the consolidated proceedings on September 27, 2007, fifteen months after the Plan was submitted.

- Equitable's next triennial Plan filing is June 1, 2009. The length of time from the September 2007 approval of the current Plan to the due date for the next filing in June 2009 is insufficient to adequately measure the effectiveness of any program changes and/or to determine the merit of additional revisions. Equitable suggests that a 180-day timeframe for review of Plans should be established. A 180-day period should be adequate to allow for Commission review with sufficient time to measure the effectiveness of any program changes and determine subsequent Plan revisions prior to the next Program submission.
- If the Commission does not accept a time limit for review of a Universal Service and Energy Conservation Plan filing, then Equitable recommends changing the three-year filing requirement to six years. The six-year timeframe would be consistent with the timeframe for the independent Plan evaluation. This proposal would require the filing of a Plan, at a minimum, one year after the completion of the independent evaluation so that the utility could take advantage of the recommendations made in the evaluation.

- In (a)(4), reinstate the last sentence that states, “The plan should include revisions based on analysis of program experiences and evaluations.”

- Create (a)(6) as follows:

The date of the NGDC’s next triennial filing shall be set at not earlier than three (3) years following Commission approval of the current filing if the Commission establishes a reasonable time period for review of the tariff filing or one year after the completion of the independent evaluation if the Commission accepts the Company’s alternate proposal.

§ 62.4(b) Tariff contents

- The proposed amendments appear to suggest that the utility should expand its tariff to encompass:
 - The triennial Universal Service and Energy Conservation Plan including
 - Program description for each component. Components usually include CAP, LIURP, CARES and Hardship Funds.
 - Eligibility criteria
 - Projected needs assessment
 - Projected enrollment levels
 - Program budget
 - Use of community-based organizations
 - Organization structure
 - Differences between the approved and implemented plan
 - Description of outreach and intake efforts
 - Program rules:

- i. Eligibility
 - ii. Enrollment process
 - iii. Customer responsibilities
 - iv. Coordination of energy assistance benefits
 - v. Arrearage forgiveness
 - vi. Dismissal from program
 - vii. Reinstatement
 - viii. Termination
 - ix. Restoration
 - x. Treatment of CAP customers who become ineligible
 - xi. Other matters
- o The Company believes adding the amount of data proposed within the tariff would substantially increase the size of its tariff. A review of the Universal Service and Energy Conservation Plan filed by Equitable in May 2006 shows that it was 28 pages in length. As an alternative, the Company recommends including a description of the CAP, including eligibility criteria, percentage of income payment thresholds, and the cost recovery in the tariff with a reference to the Commission approved Plan as a separate document.

Additionally, subsection (b) was originally drafted as "Plan contents." In its now proposed revised form, it would read "Tariff contents." Irrespective of the foregoing, certain of the items, "projected needs assessment" for example, while part of the Plan submission would seem to be inappropriate for inclusion in the Tariff.

The list of contents identified in subsection (b) should be revisited and revised in light of the change from “Plan contents” to “Tariff contents.”

- As presented in Equitable’s comments to the Proposed Revision to Policy Statement on Customer Assistance Programs, 52 Pa. Code §§ 69.261 – 69.267, at Docket No. M-00072036, in Equitable’s view, the Treatment of CAP Customers Who Become Income Ineligible is inconsistent with the CAP Policy Statement which was designed to assist low-income, payment-troubled customers at or below 150 percent of the Federal poverty level. Therefore, the Company believes that Item (x) under Program Rules should be eliminated.

§ 62.4(b)(3) Documentation

- Equitable believes that the intent of this section is that the required documentation would be included with the material submitted in support of the tariff and not as part of the tariff itself. Equitable suggests rewording the paragraph as follows:

The material submitted in support of the tariff filing shall contain documentation of costs for NGDC’s existing universal service and energy conservation program and a projection of costs for the next three years. The cost projection shall take into account changes proposed to be made to the programs and the impact of their implementation on costs. The material submitted in support of the tariff filing shall contain documentation of cost savings that result from customer participation in these programs, to the extent such savings exist.

§ 62.6 Evaluation reporting requirements

- The Commission adopted the Policy Statement on Customer Assistance Programs in June 1992 and CAP programs have been in existence for, at least, 14 years. During that time, most utilities have completed two, and some have completed three, independent impact evaluations. While these evaluations fostered enhancements to the programs, most utilities are now operating mature programs. Unless there are dramatic changes to the program design, Equitable suggests extending the interval for the completion of an impact evaluation to every 12 years.

52 Pa. Code §§ 76.1 – 76.6
Customer Assistance Programs

§ 76.1 Purpose

- The Company recommends changing “universal service and energy conservation” to Customer Assistance Programs as the proposed regulations pertain specifically to CAPs.
- Similar to its response to the PUC’s Order and Proposed Policy Statement at Docket No. M-00072036, Equitable believes that CAP is a program to assist low income, payment-troubled customers and recommends that the term “payment-troubled” be added to the first sentence under Purpose.

§ 76.2 Definitions

- Equitable recommends adding “payment-troubled” to the definition of CAP. The definition would read:

A plan sponsored by a distribution company for the purpose of providing universal service and energy conservation to low income, payment-troubled customers, in which customers shall...

- The definitions in this section should be consistent with the Policy Statement on Customer Assistance Programs at 52 Pa. Code §§ 69.261 – 69.267 and the proposed revisions to the Universal Service and Energy Conservation Reporting Requirements at 52 Pa. Code §§ 54.71 – 54.78 and §§ 62.1 – 62.8 to the extent that the words are the same.

- The following words used in this chapter should be defined and consistent with the above sections of the Pennsylvania Code to the extent that the words are the same:
 - CAP administrative costs
 - CAP credits
 - Distribution company
 - Pre-program arrears
 - Collection costs
 - Credit costs

§ 76.3 Approval Process

- It appears that the Commission is requiring a tariff filing to make even minor revisions to a CAP. This could result in significant delays and a negative impact on the CAP.
- Even with the use of the suggested 180 day limit to finalize a tariff filing and the amount of time needed to accomplish programming upon approval of the revision, it is unlikely that the revision could be implemented within a timeframe that would permit sufficient evaluation of its effectiveness prior to the next filing. Therefore, the Company recommends that the Commission identify those components of a CAP that are significant and whose revisions require a tariff filing. Other revisions would then be permitted upon 30-days notice to the Bureau of Consumer Services.

§ 76.4 Recovery of Costs of Customer Assistance Programs

- Equitable recommends modification of subsection (c) to read as follows:

The company shall include, as an offset to cost recovery, cost savings it incurred in the following areas if a cost savings exist or can be quantified. CAP cost recovery established in a base rate proceeding shall be exempted from this provision.

- Insert the words “CAP customer” before “collection” in subsection (d). The sentence would read:

The Commission shall consider the timeliness of a distribution company’s CAP customer collection activities in evaluating the reasonableness of costs claimed for recovery.

§ 76.5 Default Provisions for Failure to Comply with Program Rules

- Equitable strongly supports the criteria that all customers in CAP should apply for LIHEAP on an annual basis. At the same time, the Company is concerned that a requirement to dismiss for failure to apply for LIHEAP may not achieve the intended results.

In the original version of the Policy Statement on Customer Assistance Programs at §69.265 adopted July 24, 1992, the default provisions included dismissing a customer from CAP for failing to apply for a LIHEAP grant and designating the grant to the CAP-sponsoring utility. However, when the Policy Statement was amended in May 1999, this default provision was removed and, in its place, the PUC provided that a utility could impose a penalty on a CAP customer who is eligible for LIHEAP but fails to apply. The PUC cautioned the utility to use this option carefully and not to assess a penalty if the customer applied the grant to another utility.

Equitable agrees that the customer, who has only one regulated utility, i.e. all electric or electric and a deliverable fuel, should be dismissed from CAP for failure to apply for LIHEAP and designate the grant to the utility sponsoring CAP. The same criteria should apply to the customer who only participates in one CAP. However, the customer who is on CAP with both the electric and natural gas utility has the dilemma of where to direct the LIHEAP grant. It is unlikely that the Department of Public Welfare (DPW) will change its procedures to permit the customer to split the grant which may cause undue anxiety to the CAP participant if both utilities are advising the customer to designate LIHEAP to them to maintain eligibility.

It should also be noted that once dismissed from CAP, the customer would need to rectify the reason for default to be reinstated. This would mean waiting until LIHEAP again opens to apply.

- For the above reasons, Equitable believes that the default provision should indicate that failure to apply for LIHEAP may result in dismissal.
- Equitable believes that CAP participants who default on CAP payments should be placed into the collection cycle and removed when the customer is terminated. When you remove a delinquent CAP customer for non-payment and then place the account in the collection cycle, there is a delay in the process which can impact timely collection. Additionally, because the customer was removed from CAP, it is necessary to manually reinstate him/her on CAP, adjust shortfall and arrearage forgiveness amounts and cancel the termination process when the customer pays the overdue CAP amount.

The Commission began requesting utilities to default CAP customers for non-payment upon termination when the Natural Gas Choice and Competition Act was

enacted to ensure timely collection of delinquent CAP participants. Equitable's current programming provides collection action for delinquent CAP accounts and automatically cancels the process if the customer pays the delinquent CAP amount. Equitable also believes that this approach results in a more efficient administration of CAP.

- The Company recommends revising the proposed § 76.5(b) to add that failure to make timely payments will result in collection action up to and including termination. The customer will be removed from CAP upon termination.

§ 76.6 Restoration of Service after Termination for Nonpayment of CAP Bills

- On page 57 of the Final Investigatory Order, Docket No. M-00051923, the Commission indicates that restoration will be governed by 66 Pa. C.S. § 1407(c). This may result in the customer paying less than the CAP catch-up amount for restoration. An Equitable customer, who is delinquent on CAP payments, must bring those payments up to date to be reinstated. Therefore, the customer will not be reinstated in CAP upon reconnection unless the default has been corrected. To enroll a former customer, who has not paid the full catch-up amount (CAP delinquency), into CAP "with all CAP benefits to resume"¹ would, in Equitable's opinion, be inconsistent with 66 Pa. C.S. § 1405(c).
- Equitable also recommends renaming this section to Reinstatement Provisions.
- Add a provision to this section that requires correction of the default reason for re-entry into CAP. For example, a customer removed from CAP for failing to recertify eligibility must complete the recertification process and make up any missed CAP payments to re-enter CAP.

¹ Order and Proposed Policy Statement, Docket No. M-00072036, page 13

Conclusion

Equitable thanks the Commission for the opportunity to comment on the Proposed Rulemaking Order. The Company respectfully requests that the Commission consider these comments in implementing changes to the Universal Service and Energy Conservation Reporting Requirements and promulgating regulations for Customer Assistance Programs.

Respectfully submitted,

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