

**STATEMENT OF NATIONAL FUEL GAS DISTRIBUTION CORPORATION  
AND COLUMBIA GAS OF PENNSYLVANIA, INC.**

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# 2772

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Good morning and thank you for the opportunity to submit a brief statement regarding the Pennsylvania Public Utility Commission’s (PUC) proposed regulations regarding natural gas companies and the promotion of competitive retail markets.

While we support the PUC’s efforts to “level the playing field” for all market competitors, the proposed regulations do not achieve the desired balance among the interested parties.

**1. Subsidization of Service to Shopping Customers**

We are concerned that the proposed regulation will result in inappropriate subsidization of service to shopping customers by non-shopping customers.

Section 2203(5) of the Natural Gas Choice and Competition Act states that restructuring shall be “implemented in a manner that does not unreasonably discriminate against one customer class for the benefit of another.” In response to claims of inappropriate subsidization, the PUC stated at page 24 of its *Revised Final Rulemaking* that “shopping customers are penalized with a double payment of commodity-related costs.” Hence the PUC seems to infer that no SOLR costs benefit shopping customers. However, this ignores an important and necessary function that the SOLR is obligated to perform in accordance with the Natural Gas Choice and Competition Act. Under 66 Pa. C.S. § 2207(a)(2)(iii), NGDCs in their current roles as the SOLR are obligated to provide “natural gas supply services to those customers whose natural gas supplier has failed to deliver its requirements.”

The obvious example of this is where a supplier defaults on all its supply obligations and the SOLR must step in and provide supply service in its place. Such defaults are rare. However, a much more common occurrence is that a supplier’s gas supply nominations for its customer pool are short and the NGDC, in its role as SOLR, must fill the supply gap so the customers’ supply needs are satisfied without interruption of service. This happens regularly and it is an unavoidable SOLR expense that directly benefits shopping customers, and its frequency will only increase as more customers shop.

The PUC also disregards our arguments that, as the SOLR, NGDCs are statutorily obligated to stand ready to serve customers, including those that are currently shopping. They do so with little explanation other than to say that “those who use the service should pay for it” and that “this position ignores competitive equity.” *Revised Final Rulemaking* at 22 and 23. Do you have to directly use a service to benefit from it? If I purchase an insurance policy for my car or home, but never file a claim, don’t I still receive a benefit from the security provided by those policies in the event of an incident? Similarly aren’t shopping customers receiving a benefit in the form of added security and reliability in their service by the existence of the SOLR? Isn’t this added security and reliability of service precisely why the legislature mandated under § 2207 that the SOLR serve those customers who don’t choose a supplier, who are refused service from a supplier and whose supplier defaults on its supply obligations? The conclusion to be drawn is that the SOLR clearly and positively benefits both non-shopping and shopping customers and because both groups benefit from the SOLR, both groups should pay for those costs.

Because the proposed regulations will result in non-shopping customers subsidizing service to shopping customers contrary to § 2203(5) of the Natural Gas Choice and Competition Act, the proposed regulations should be disallowed by this Commission.

## **2. Stranded Costs**

We are also concerned that the proposed regulations will result in stranded costs for our companies.

Stranded costs will arise out of the PUC’s proposal to include all Supplier of Last Resort (SOLR) costs in the Price to Compare (PTC). The problem, as detailed in our comments, others’ comments and the dissents of Commissioners Christy and Gardner, is that the PTC will only be paid by non-shopping customers. The problem this creates is that if most or all customers migrate to shopping then few or no customers will be paying the PTC and we will have no means to recover our unavoidable SOLR costs; *ie*, those costs that we must incur to fulfill our statutory obligations as the SOLR. As a result these unavoidable SOLR costs will become stranded.

The Natural Gas Choice and Competition Act provides in 66 Pa. C.S. § 2203(3) that the PUC shall consider “the impact of such unbundling on . . . the creation of stranded costs.” The PUC has considered the issue and rather than addressing this known problem in the present regulation it has promised to deal with it at a later date. The PUC states at page 23 of its *Revised Final Rulemaking* that “the situation can be addressed by future rate changes or designation of an alternative SOLR supplier.” The rate change that would be needed to correct this problem would be to keep these unavoidable SOLR costs in base rates. If, as acknowledged by the PUC, the creation of these stranded costs will be wrong and unfair to Natural Gas Distribution Companies (NGDCs) and non-shopping customers at some point in the future, then it is only logical to conclude that placing these costs in the PTC today via the proposed regulation is likewise wrong

and unfair to NGDCs and non-shopping customers, and therefore the proposed regulations should be disallowed.

As to the PUC appointing another entity as the SOLR in place of an NGDC, due to the statutory requirements applicable to the SOLR under 66 Pa. C.S. § 2207(b), it is very uncertain how an alternate SOLR would comply with the mandated consumer protection requirements and still recoup their expenses and make a modest profit, especially if all customers are shopping and all SOLR costs are imbedded in the PTC. Notably, no gas supplier has yet to seek approval as a SOLR. So it seems NGDCs are likely to remain the SOLR for the foreseeable future and continue to be at risk of incurring stranded costs.

Because this regulation allows for the creation of stranded costs contrary to the law and sound ratemaking principles, it should be disallowed by this Commission.

We thank you for the opportunity to speak to you about this important issue and we would be happy to answer any questions you may have.