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**Philadelphia Gas Works**

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August 25, 2009

**VIA EXPRESS MAIL**

James J. McNulty - Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

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2009 SEP -1 AM 10:26  
INDEPENDENT REGULATORY  
COMMISSION

Re: **Philadelphia Gas Works' Comments to the March 26, 2009 Proposed Rulemaking Order; Docket No. L-2008-2069114**

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of Philadelphia Gas Works' Comments to the March 26, 2009 Proposed Rulemaking Order.

If you have any questions, please contact me.

Respectfully submitted,

Gregory J. Stunder

Enclosure

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Harrisburg, PA. 17105-3265

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PA PUBLIC UTILITY COMMISSION  
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Natural Gas Distribution Companies and the  
Promotion of Competitive Retail Markets

Docket No. L-2008-2069114

COMMENTS OF PHILADELPHIA GAS WORKS  
TO THE MARCH 26, 2009 PROPOSED RULEMAKING ORDER

I. INTRODUCTION

In its September 11, 2008 Final Order and Action Plan regarding the Commission's *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group*<sup>1</sup> (*SEARCH Order*), Docket No. I-00040103F0002 (*SEARCH Order*), the Commission determined that one way to increase effective competition in the retail natural gas market was to revise the Natural Gas Supply Customer Choice regulations. On March 26, 2009, the Pennsylvania Public Utility Commission (the "Commission") issued a Proposed Rulemaking Order (the "March 26 Order") setting forth the proposed addition of Subchapter G titled "Natural Gas Distribution Companies and Competition" at 52 Pa. Code §§ 62.221. This Proposed Rulemaking seeks to adopt regulations governing the relationships between Natural Gas Distribution Companies (NGDCs) and the Natural Gas Suppliers (NGSs) which sell, or seek to sell natural gas to end users on the NGDC distribution systems. The March 26, 2009 Order and attached regulations

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<sup>1</sup> The Stakeholders had been convened based on the Commission finding that "effective competition" did not exist in the retail natural gas market in accordance with 66 Pa.C.S. § 2204(g) (relating to investigation and report to General Assembly). See *Investigation into the Natural Gas Supply Market: Report to the General Assembly on Competition in Pennsylvania's Retail Natural Gas Supply Market*, Order entered at Docket No. I-00040103.

(Appendix A) were published in the *Pennsylvania Bulletin* on July 11, 2009 (39 Pa.B. 3461) and interested parties were given forty-five days, or until August 25, 2009 to file written comments.

Philadelphia Gas Works (“PGW” or the “Company”) provides natural gas distribution services and natural gas supply to approximately 500,000 customers in the City and County of Philadelphia. Currently, three (3) Natural Gas Suppliers (“NGS” or “licensee” or “supplier”) are licensed to provide natural gas supply to PGW’s transportation customers.

PGW has reviewed the March 26 Order and supports many aspects of the proposed rulemaking. At the same time, PGW believes that the proposed regulations can be further clarified and strengthened in a number of important respects. The following comments are submitted with these objectives in mind.

## II. SECTION-BY-SECTION COMMENTS

### **§62.221. Purpose., §62.222. Definitions., and §62.223. PTC.**

The proposed regulations seek to create a “rate neutral adjustment to currently existing base rates and the PGC rate to develop a reasonable P[rice] T[o] C[ompare] by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC.”<sup>2</sup> The regulations attempt to do so by crediting “residential and small commercial customers” for gas procurement costs in currently existing base rates.<sup>3</sup> By limiting the credit to residential and small commercial customers, gas procurement costs will remain in the base rates charged to all other retail gas customers.<sup>4</sup> PGW does not believe that it is the intention of the Commission to permit gas

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<sup>2</sup> *Proposed regulation: 52 Pa.Code 62.223.(d).*

<sup>3</sup> *Proposed regulation: 52 Pa.Code 62.222. – definition of GPRR—Gas procurement reduction rate.*

<sup>4</sup> That is larger commercial, industrial, municipal and public housing customers. A retail gas customer is defined as a direct purchaser of natural gas supply services or natural gas distribution services, other than an NGS. The term excludes an occupant of a building or facility where the owner/operators manage the internal distribution system serving the building or facility and supply natural gas and other related services to occupants of the building or

procurement costs to remain in the base rates of any customer regardless of rate class and size. The focus of the SEARCH proceeding was not just to promote competition for the benefit of residential and small business customers, but all retail gas customers. Additionally, the *Natural Gas Choice and Competition Act* provides all “retail gas customers” with the ability to choose their natural gas supplier.<sup>5</sup> Moreover, including gas procurement costs for some classes of customers but not for others is likely to create confusion. In order to develop a “reasonable PTC” for all retail gas customers, the regulations must be revised so that gas procurements costs are removed from all currently existing base rates. PGW recommends the following revisions to the proposed regulations (deletions in [ ] and additions in bold font):

§ 62.221. Purpose.

To foster a competitive retail marketplace for **retail** natural gas service [to residential and small commercial] customers, it is essential that consumers be able to compare the price of gas purchased from their incumbent NGDCs with that offered for sale by NGSs. This subchapter sets forth a number of regulatory changes which will provide a more level playing field between NGDCs and NGSs and, therefore, promote competition for natural gas supplies.

§ 62.222. Definitions.

*GPRR--Gas procurement reduction rate--*An equal offsetting credit to the GPC, billed to all [residential and small commercial] **retail gas** customers.

§ 62.223. PTC.

(e) The proposed NGPA tariff rider shall establish a GPC on a per MCF/DTH basis to be applied to customers' bills receiving SOLR service for the recovery of gas procurement costs currently recovered through base rates, and a GPRR on a per MCF/DTH basis, as an equal offsetting credit to the GPC, billed to all [residential and small commercial] **retail gas** customers.

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facility; where the owners/operators are direct purchasers of natural gas supply service; and when the occupants are not direct purchasers. 52 Pa.Code 62.72.

<sup>5</sup> 66 Pa. C.S. §2203(2).

**§62.222. Definitions. and §62.223. PTC.**

§62.222. and §62.223.(d) The definition for “NGPA—Net gas procurement adjustment” in section §62.222 along with subsection §62.223.(d) creates a “rate neutral adjustment to currently existing base rates and the PGC rate to develop a reasonable PTC by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC.” This proposed regulation seeks to shift costs via the creation of a “GPRR—Gas Procurement Reduction Rate” which is a reduction to base rates and a “GPC—Gas Procurement Charge” designed to recover the natural gas procurement costs removed from base rates via the GPRR. When seeking to shift gas procurement costs in this manner, a “rate neutral adjustment” cannot be accomplished. The reduction of base rates via the GPRR will be based on the sales volume from a NGDC’s most recent base rate case, whereas, the corresponding recovery of these costs via the GPC will be based on the current PGC sales volumes. Of course, the base rate case volumes and the PGC volumes will not match, therefore, the GPRR and GPC will not match. Without this matching, there is not rate neutrality. Nonetheless, revenue neutrality will occur by this very same process (i.e. identifying the gas procurement costs, removing these costs from base rates via the GPRR and then recovering these costs via the GPC) because it will not result in recovering more costs than approved in a NGDC’s most recent base rate case. Over-recovery of costs will not result because the gas procurement costs factored into the GPRR will be based on approved base rate case costs and volumes.

As a result of the foregoing, PGW recommends the following changes to §62.222 and §62.223 (deletions in [ ] and additions in bold font):

§62.222. Definitions.

*NGPA--Net gas procurement adjustment--*A tariff rider designed to create a [rate] **revenue** neutral adjustment to currently existing base rates and the PGC rate to

develop a reasonable PTC by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC.

§62.223. PTC.

(d) The NGPA shall be designed to create a [rate] **revenue** neutral adjustment to currently existing base rates and the PGC rate to develop a reasonable PTC by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC.

**§62.223.(h) and §62.223.(j)** Subsections (h) and (j) require monthly adjustment of the Gas Procurement Charge and the Purchased Gas Cost rate. PGW strongly concurs with the March 26, 2009 Statement of Vice Chairman Tyrone J. Christy in which Vice Chairman Christy disagrees with monthly adjustments and supports maintaining quarterly adjustments but with meaningful market information for NGDC retail gas customers. The following is the relevant portion of Vice Chairman Christy's statement:

Furthermore, once the amount of these [natural gas procurement related] costs are identified and included within the Price to Compare, the proposed regulations require NGDCs to adjust their Price to Compare on a monthly basis, instead of quarterly. The alleged purpose of the monthly adjustment requirement is that the present approach does not reflect actual market prices and does not allow for meaningful price comparisons between offers from NGSs and the NGDC Price to Compare.

I am inclined to disagree with the proposed requirement to implement monthly NGDC pricing as I question whether it is sound public policy to make SOLR service volatile or "ugly" simply to encourage fixed price offers from competitive natural gas suppliers. I believe that the existing quarterly adjustment process represents a fair compromise between annual and monthly adjustments and should be retained. This allows natural gas consumers to have some period of stability in their gas costs.

However, I have an overriding concern regarding the entire Price to Compare concept, whether it will be adjusted quarterly or monthly. Today, when natural gas customers decide to switch to an alternative supplier, many of these customers have no idea if the offered price will continue to be more attractive than the NGDC's Price to Compare. Simply providing the currently effective Price to Compare does not allow consumers to make informed decisions when considering offers from competitive suppliers. More information is necessary, especially if natural gas customers are exposed to NGS proposals which require a long term commitment. Consumers need to be provided projected natural gas price forecasts to make informed, educated choices. I request that commenters address whether the Commission should develop a monthly

projection of natural gas prices for the ensuing twelve months based upon the best available market information. This information could be posted on our website and the Commission could require each NGDC to provide this information to its customers on a regular basis. Without this type of information being readily available, consumers will be unaware if the choice they are making today will continue to be the right choice two, four or six months down the road.

Natural gas consumers need to be informed as much as possible in order to make reasoned decisions if the competitive gas market is to succeed. In my opinion, the development of gas price forecasts will help reduce the number of cases where marketers take advantage of uninformed consumers with price offers that in reality cost consumers more than if they simply not had shopped. These gas price forecasts are readily available and should be made available to all natural gas customers.<sup>6</sup>

As stated by Vice Chairman Christy, simply seeking to institute a monthly PGC rate will not assist consumers in choosing a supplier. Additionally, a monthly PGC rate will not further the Commission's stated interest in establishing a rate that reflects current wholesale prices<sup>7</sup> (but it will increase the volatility of rates charged to customers). The manner in which NGDCs must purchase and price their gas supply cannot possibly result in a PGC that wholly reflects current market pricing. The statutory mandate to follow a "least cost" procurement policy<sup>8</sup> has been interpreted to prohibit such pricing because NGDCs are not permitted to purchase all of their natural gas with first of month index and spot market transactions. In order to provide price stability and the security of gas supply, NGDCs must hedge their gas supply portfolios with the physical storage of gas and contracting for gas supply at future market prices. As a result, whether the PGC changes monthly or quarterly, the PGC rates of NGDCs will never represent current wholesale pricing. Based on the foregoing, PGW recommends the following revisions to the proposed regulation (deletions in [ ] and additions in bold font):

§62.223. PTC.

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<sup>6</sup> *Natural Gas Distribution Companies And the Promotion of Competitive Retail Markets*, Statement of Vice Chairman Tyrone J. Christy, L-2008-2069114, (March 26, 2009).

<sup>7</sup> March 26 Order at p. 5.

<sup>8</sup> 66 Pa.C.S.A § 1318.

(h) The GPC shall be adjusted [monthly] **quarterly**.

(j) An NGDC shall adjust its PGC [monthly] **quarterly**.

**§ 62.225. Release, assignment or transfer of capacity.**

Subsection (a) provides that a NGDC may release, assign or transfer firm storage or transportation capacity to licensed NGSs or large commercial or industrial customers on its system. PGW recommends that this regulation must also acknowledge that NGDCs are the Suppliers Of Last Resort (SOLR)<sup>9</sup> and, as a result, the NGDC/SOLR shall factor in the NGDC's responsibility for the security of supply when releasing, assigning or transferring firm storage. Simply releasing, assigning, or transferring firm storage capacity on a recallable basis is not sufficient. For example, NGDCs must carefully consider how much firm storage it can release, assign or transfer because the NGDC/SOLR must always maintain an adequate level of natural gas in storage depending upon the time of year. Natural Gas Supplier's (NGS) do not have this responsibility. As a result, a NGS could deplete released/assigned/transferred storages in a manner that does not comport with maintaining the security of supply (which is designed to protect customers). If the NGS prematurely depletes supplies and defaults on its obligations to its customers, SOLR responsibilities require the NGDC to replace the missing natural gas at what most likely will be higher priced gas. Additionally, in the worst case scenario, the NGDC could be in the position of not being able to replace the gas at all if there are production interruptions, pipeline interruptions or depletion of its on-system peaking storage. In order to properly consider security of supply, PGW recommends the following addition (addition in bold font):

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<sup>9</sup> See, e.g., PGW Pa. PUC Tariff No. 1, Section 15.1 (PGW acts as SOLR for customers with annual usage under 4,000 Mcf per year and must supply gas to larger customers for up to ninety days if a customer's NGS fails to deliver or exits the market.



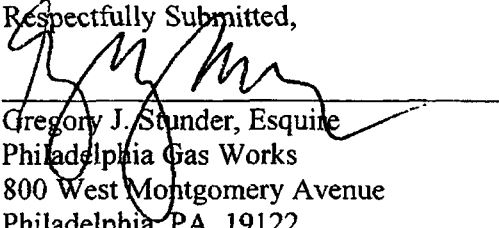
§ 62.225. Release, assignment or transfer of capacity.

(a) An NGDC holding contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or a city natural gas distribution operation, may release, assign or transfer the capacity or Commonwealth supply, in whole or in part, associated with those contracts to licensed NGSs or large commercial or industrial customers on its system. **The amount released, assigned or transferred to a NGS shall be balanced with the security of supply for all retail gas customers.**

### III. CONCLUSION

PGW appreciates the opportunity to provide comments to the proposed rulemaking and the Company looks forward to continue working with the Commission and other stakeholders on these critical issues. We respectfully request that the Commission incorporate our suggestions into the proposed regulations.

Respectfully Submitted,



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Date: August 25, 2009

