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**T.W. PHILLIPS**  
**GAS AND OIL CO.**

205 North Main Street  
Butler, Pennsylvania 16001  
(724) 287-2751

August 25, 2009

EXPRESS MAIL

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor North  
Harrisburg, Pennsylvania 17105

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Re: Natural Gas Distribution Companies and the Promotion of  
Competitive Retail Markets, PUC Docket No. L-2008-2069114

Dear Secretary McNulty:

Enclosed with this letter are the original and fifteen copies of T. W. Phillips Gas and Oil Co.'s ("T. W. Phillips") Comments in response to the Proposed Rulemaking Order and Annex A thereto, as adopted by the Commission at the above-referenced Docket on March 26, 2009 and entered on March 27, 2009.

Very truly yours,

**T. W. PHILLIPS GAS AND OIL CO.**

Jay W. Dawson  
Vice President - Legal  
and Corporate Secretary

JWD/bjr

Enclosures

cc: Robert M. Hovanec  
Andrew P. Wachter  
Lawrence F. Barth, Esquire

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AUG 25 2009

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Natural Gas Distribution Companies )  
and the Promotion of Competitive )  
Retail Markets )  
)  
)

Docket No. L-2008-2069114

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AUG 25 2009

**COMMENTS OF T. W. PHILLIPS GAS AND OIL CO.**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

I. Introduction

In response with the Pennsylvania Public Utility Commission's (the "Commission") Proposed Rulemaking Order entered in the above-captioned proceeding on March 27, 2009 (the "Order"), T. W. Phillips Gas and Oil Co. ("T. W. Phillips") hereby submits the following Comments with respect to Annex A attached to the Order and the proposed regulations at 52 PA Code, Sections 62.221 - 62.227.

At the outset of these Comments, T. W. Phillips would respectfully remind the Commission that the overall objective of promoting competitive retail gas markets should be to provide Pennsylvania gas consumers with an opportunity to reduce the cost of gas service. T. W. Phillips remains concerned that these efforts to promote competition will, if great care is not taken, add to the cost of gas service for Pennsylvania consumers. A remark contained in Commissioner Christy's Statement of April 30, 2009 on the Proposed Rulemaking: Natural Gas Distribution Company Business Practices at Docket Nos. L-2009-2069117 and I-00040103F0002 eloquently addresses T. W. Phillips' concerns:

"What this means in plain English is that we potentially are imposing new non-bypassable costs on Pennsylvania gas consumers so that we can create a more competitive environment for alternative suppliers. If the goal of competition is to level the playing field and provide consumers with choices that could result

in cost savings, then I would support such charges. However, if the end results of leveling the playing field is simply to add new non-bypassable costs that otherwise would not have been incurred, then I would be less inclined to support such charges. Alternative gas suppliers have a significant hurdle here to demonstrate that savings are possible with retail natural gas choice in the residential sector, particularly when the NGDCs are required by statute to procure their gas supply under a Commission approved least cost procurement standard with no provision for a profit on that cost."

## II. Comments by Topic or Issue

### A. Reformulation of the Price to Compare

#### 1. Separation of Gas Procurement Costs

Section 62.223(6) states that every NGDC "...shall remove all natural gas procurement costs from its base rates..." The purpose and intent of this Section is to insure that all gas procurement related costs incurred by the NGDC are removed from base rates and included in the price to compare, so as to make the price to compare more closely aligned with the gas supply rate charged by NGS to their customers.

For relatively small gas distribution companies, like T. W. Phillips, it is very difficult to precisely identify and isolate all costs related to natural gas procurement, in part because Company personnel involved in gas procurement activities are also involved in activities unrelated to gas procurement. Furthermore, as suggested in the Statement of Vice Chairman Christy, some such costs will, for T. W. Phillips, continue to be incurred and be unavoidable. For example, because of its relatively small size, T. W. Phillips presently has only a few employees in the gas procurement function. There is not a large procurement staff which could be cut by 50 percent if the need to acquire gas supply for residential and small commercial customers were to be reduced by 50

percent as a result of increasing NGS activity on the system. Accordingly, even if, as a result of increased NGS activity on the T. W. Phillips' system, their procurement activities are reduced, these few employees will still have to perform such functions, making it difficult, if not impossible, for T. W. Phillips to completely isolate the procurement related costs. Furthermore, a certain level of gas procurement activities will have to be maintained by T. W. Phillips, regardless of the extent to which its customers are being supplied by NGS, simply to maintain the capacity to serve as supplier of last resort for the customers on its system. In such circumstances, where procurement costs cannot, as a practical matter, be wholly separated, customers of T. W. Phillips who retain retail service will be paying higher costs than those who choose to secure their gas supplies from an NGS.

## 2. Monthly Adjustment of Price to Compare

While T. W. Phillips would prefer to retain the existing quarterly adjustment of its Base Cost of Gas, in part because of the increased volatility likely to be introduced by a monthly adjustment procedure, if it is required to make that adjustment monthly in order to provide a monthly price to compare, then T. W. Phillips urges the Commission to condition such monthly adjustments on the following:

(i) Monthly adjustments of the Base Cost of Gas should be filed on one day's notice and be made effective on a 'bills rendered' basis as of the first day of each calendar month (i.e. filed on August 31<sup>st</sup> to be effective on September 1<sup>st</sup>). Use of the 'bills rendered' basis will preserve for customers the opportunity to tie in each utility bill to a particular Tariff rate sheet, rather than having to contend with a complex, pro-rated bill every month.

(ii) Monthly adjustments of the Base Cost of Gas should be calculated based on a 12-month forward-looking purchased gas cost in order to develop a price to compare that is more like the 12-month fixed price alternative typically offered by NGS.

B. Purchase of Receivables

T. W. Phillips contends that NGS which choose to participate in purchase of receivables programs should be required to make use of the NGDC's consolidated billing services. To do otherwise is likely to create significant confusion among utility customers used to receiving a single bill and constitute a substantial burden on the NGDC, which will have to rely upon the NGS to deliver timely and accurate gas supply billing information in order to generate NGDC customer bills.

C. NGDC Costs of Competition Related Activities

Since the competition-related activities contemplated by this Proposed Rulemaking are intended primarily to stimulate a greater level of gas competition in the markets where it is least prevalent in Pennsylvania today; namely, among residential and small commercial gas consumers, the recovery of the associated costs should be limited to those customer classes. Large commercial, industrial and other large volume customers have already been active in the gas market place for many years, obtaining their own gas supplies and arranging for the transportation of such supplies on the appropriate NGDC systems. Clearly, costs incurred by NGDC in the context of regulations contemplated by this Proposed Rulemaking will not benefit those large volume customers and should, therefore, be charged exclusively to the smaller volume (i.e. residential/small commercial) customers who will be the primary beneficiaries of these enhancements.

Furthermore, T. W. Phillips believes that the NGDC recovery of such costs should be retroactive to the Commission's *Report to the General Assembly on Pennsylvania's Retail Natural Gas Supply Market* in October 2005 to allow for the opportunity to recover all costs that have been incurred by NGDCs in the long process of responding to said Report.

D. Regulatory Assessments

T. W. Phillips strongly supports the implementation of a surcharge to recover regulatory assessments from all customers apart from base rates. In its past base rate cases, regulatory assessments have been included in the same expense classification as state taxes, which have been recovered by means of a surcharge for many years. Accordingly, T. W. Phillips recommends that the surcharge to recover regulatory assessments be calculated on the same basis and at the same time as the state tax adjustment surcharge to ensure their consistent treatment. One practical difficulty to be encountered until the first base rate case following the implementation of these proposed regulations will be the determination exactly of what level of regulatory assessments are actually included in base rates, especially in circumstances where, as in T. W. Phillips' case, the last base rate case ended in settlement, without a precise determination of such costs and their related recovery level.

E. Other Issues

In order to address some of the issues raised by Commissioner Christy in his Statement, T. W. Phillips offers the following additional comments:

1. Consistent with its remarks set forth above in Section II.A., because T. W. Phillips' existing gas procurement staff consists of very few personnel, there will be a significant segment of gas procurement activities that will be unavoidable under virtually any scenario. In such circumstances, T. W. Phillips contends that these unavoidable costs be considered sunk costs to be borne by all customers, regardless of their decision to participate or not in a competitive gas supply market. Certainly, customers who elect to choose an NGS will still benefit to the extent that the opportunity remains for them to return to T. W. Phillips' retail service as the supplier of last resort, should their NGS be unwilling or unable to maintain their gas supply.

2. T. W. Phillips shares the concerns expressed by Commissioner Christy about the potential that monthly adjustments of its Base Cost of Gas will cause confusion among its customers, particularly during periods of significant price volatility. Furthermore, to the extent that monthly adjustments are required, T. W. Phillips reiterates its earlier comments to urge the Commission to permit the monthly adjustments to be made effective on a 'bills rendered' basis and not pro-rated on a 'service rendered' basis. To do the latter would be to cause enormous complications for the NGDC and create a situation whereby the NGDC would effectively have to bill a different rate every billing day of the year. Implementation of a 'bills rendered' basis for the monthly adjustment will greatly simplify the process for NGDC and customers alike.

3. As explained in Section II.A. above, T. W. Phillips' recommendation that a monthly adjustment of the Base Cost of Gas utilize a 12-month 'look forward' purchased gas cost estimate, will have the effect of providing the customer with a cost to compare much more like the gas supply rate offered by the NGS.


4. T. W. Phillips also shares Commissioner Christy's concerns about the impact of migration riders on a customer's ability to make an informed choice on whether or not to purchase a competitive gas supply from an NGS. Specifically, T. W. Phillips believes that the NGDC's current e-factor recovery amount should be included in its Base Cost of Gas or price to compare and recovered from customers who choose to purchase their gas supplies from an NGS, as well as from retail service customers.

III. Conclusion

T. W. Phillips appreciates the opportunity to offer these Comments in response to the Commission's Proposed Rulemaking at the above-captioned Docket.

Respectfully submitted  
**T. W. Phillips Gas and Oil Co.**

Date: August 25, 2009



Jay W. Dawson  
Vice President - Legal

T. W. Phillips Gas and Oil Co.  
205 North Main Street  
Butler, Pennsylvania 16001  
724 431-4924