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2009 DEC -3 AM 10:42

INDEPENDENT REGULATORY REVIEW COMMISSION

December 1, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code §§ 62.181-62.185
Docket No. L-2009-2069117

SEARCH Final Order and Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market
Docket No. I-00040103F0002

Dear Secretary McNulty:

Enclosed are the Comments of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

James A. Mullins

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Assistant Consumer Advocate
PA Attorney I.D. # 77066

Enclosure
cc: Patricia Krise Burket, Law Bureau (Via E-mail Only)
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code §§ 62.181-62.185	:	Docket No. L-2009-2069117
SEARCH Final Order and Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market	:	Docket No. I-00040103F0002

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: December 1, 2009

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I. INTRODUCTION

On May 1, 2009, the Pennsylvania Public Utility Commission (PUC or Commission) entered a Proposed Rulemaking Order (Rulemaking Order) issuing for comment proposed regulations that, among other things, direct Natural Gas Distribution Companies (NGDCs) to submit standard Supplier Coordination Tariffs (SCTs), and to implement standard business practices and communication standards and formats that the Commission determines to be cost-effective and that remove market barriers. The proposed regulations also provide for NGDC recovery of "reasonable costs" prudently incurred which are directly attributable to such implementation. Proposed Rulemaking Order, Docket No. L-2009-206911 (Order Entered May 1, 2009). In the Order, the Commission also announced its intention to initiate a stakeholder process to develop a standard SCT and make recommendations for the adoption of standard business practices for the retail natural gas market. Order at 2. This stakeholder process is to run concurrently with the Rulemaking.

The Commission initiated this rulemaking in response to a Commission Final Order and Action Plan which identified certain steps that the Commission should consider taking in order to help promote the development of competition in the retail markets for natural gas supply in the Commonwealth. See, Investigation into the Natural Gas Supply Market; Report on Stakeholders' Working Group (SEARCH); Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market, Docket No. I-00040103F0002 (Final Order and Action Plan Entered September 11, 2008) (SEARCH Order). The SEARCH Order identified three areas that the Commission believed were appropriate for commencing rulemakings to adopt regulations consistent with the goal of nurturing a robust retail market for natural gas. Those three areas are: 1) NGDC issues, 2) NGS issues and 3) business practice issues. See SEARCH Order at 7. The current Rulemaking Order addresses the third of those three areas--NGDCs and their business practices. Specifically, the Commission proposes to add several sections to Chapter 62 (entitled "Natural Gas Supply Customer Choice") of Title 52 of its regulations to address NGDC business practices.

As an initial matter, the OCA would urge great caution in proceeding to initiate efforts to remove perceived barriers to retail competition, particularly efforts that will come at the expense of ratepayers with no assurance of any benefit. While the OCA acknowledges that retail choice in the natural gas industry has been slow to develop, the worst result would be to take a path that is designed to encourage greater customer switching by either increasing the price or degrading the reliability of the natural gas service that is currently provided to the vast majority of residential customers by their regulated natural gas distribution companies.

The intent of the Natural Gas Choice Act was to provide benefits to consumers by introducing greater competitive choice to Pennsylvania. The Act provided small natural gas users with greater direct access to the competitive wholesale natural gas market, which was already available to large gas consumers, but at the same time continued the protection of regulation for those customers who wished to stay with their incumbent supplier. Even customers who do not shop though, still receive the benefit of wholesale natural gas competition as reflected in the least cost gas purchasing practices of their distribution companies. To the extent that a retail marketer is able to provide lower prices or other benefits, customers in some Pennsylvania service territories have switched suppliers.

While there has been some retail natural gas choice by residential customers, the great majority of residential customers continue to purchase their commodity from their NGDC. In Pennsylvania, based on the OCA Shopping Statistics from October 1, 2009, approximately

190,000, or about 7% of Pennsylvania residential natural gas customers, nearly all in Western Pennsylvania, purchase their natural gas from competitive, unregulated suppliers. The remaining 93% of residential customers are still buying their gas from their regulated natural gas distribution companies. It should come as no surprise that customers have not switched in great numbers. The NGDCs' purchasing practices are scrutinized by the Commission each year and are statutorily required to be least cost. The NGDC receives no profit or markup on their gas purchases. If the NGDCs have been doing their job – that is, by following a least cost gas purchasing policy under which wholesale gas costs are flowed through to customers without profit or mark up – customers have limited incentive to switch to an alternative supplier. The unregulated marketers, operating in the same wholesale natural gas markets as the NGDCs, may not be able to offer service that provides significant benefits to customers that would lead the customer to choose to switch. This is not a reason, however, to change operational rules with no analysis of whether the changes are cost-effective for consumers or will even produce cost savings for customers. Indeed, as explained below, the Commission's proposed cost recovery mechanism suggests that prices will, in fact, go up for NGDC customers.

As succinctly stated by Vice Chairman Christy in his Statement accompanying this Rulemaking:

> 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. While both NGDCs and alternative suppliers generally obtain natural gas from the same market, alternative suppliers must earn a profit on that gas—otherwise they would not be in business. The alternative suppliers must find enough efficiencies somewhere in their gas procurement practices to earn a profit while undercutting what has been blessed as a least cost gas procurement by the NGDC.

Natural Gas Distribution Company; Business Practices, Docket No. L-2009-2069117 (Statement of Vice Chairman Tyrone J. Christy, April 30, 2009).

As the Commission considers these proposed regulations, the OCA is particularly concerned with proposed regulations that will increase costs to consumers. The OCA's comments will particularly focus on issues regarding the recovery of competition-related costs from customers and the proposed imbalance trading, tolerance bands and cash-out provisions. The OCA submits that several of the proposed regulations will likely lead to increased costs for non-shopping customers. The OCA also has concerns regarding the Commission's proposal to direct NGDCs to, among other things, install or upgrade their billing systems. In these Comments, the OCA makes several modifications to Proposed Sections 62.181, 62.184 and 62.185.

Through these Comments, the OCA will provide its position on the Commission's proposed regulations. In Appendix A, the OCA attaches a redline version of the proposed regulations showing how the regulations should be modified in accordance with the OCA's position.

II. COMMENTS

Section 62.181: General.

In Proposed Section 62.181, the Commission sets forth the general requirements of its proposed regulations. The last sentence of this proposed Section reads: "NGDCs are authorized to recover reasonable and prudently incurred costs of implementing and promoting natural gas competition in this Commonwealth." As set forth in more detail below, the OCA submits that significant retail choice has not developed in many parts of Pennsylvania despite the fact that ratepayers have already absorbed costs related to the transition to retail choice. A requirement that ratepayers pay even more costs associated with untested initiatives is not appropriate. As a result, the OCA submits that the last sentence of proposed Section 62.181 is overbroad and should be removed.

Section 62.184: NGDC Cost Recovery.

In Proposed Section 62.184, the Commission proposes a mechanism for the NGDC to recover the costs incurred in connection with implementation of any changes designed to promote the development of effective competition in the retail market. Rulemaking Order at 4-5. The Commission proposes the use of a non-bypassable surcharge that would be paid by all customers, shopping and non-shopping, and would not be considered in the calculation of the Price to Compare. Id. The mechanism is to be established as part of an NGDC's next annual filing pursuant to 1307(f).

The OCA submits that recovery of some of these costs from ratepayers is not appropriates. First, there is no indication as to whether the costs associated with implementing these changes are large and volatile, thus warranting recovery through a surcharge mechanism. The OCA would also note that ratepayers have already absorbed costs related to the transition to retail choice and consumer education costs related to retail choice. Despite these costs and efforts, and despite the fact the NGDC rates in Pennsylvania have reflected wholesale market price in their rates for decades, little retail choice has developed in most of Pennsylvania. It seems particularly inappropriate to require ratepayers to pay even more costs associated with untested initiatives. Second, there has been no showing whatsoever that these costs or changes will be beneficial to customers or cost-effective in any way. Absent such a showing, it is unfair to saddle customers with yet more costs. As Vice-Chairman Christy stated, encouragement of switching to alternative suppliers should not be advanced on the backs of ratepayers.

The OCA recommends that Proposed Section 62.184 be removed in its entirety. The OCA agrees, however, that if any cost recovery from ratepayers is to be permitted, that costs should be recovered from all ratepayers, shopping and non-shopping, on a non-bypassable basis as provided for in the proposed regulation. Further, a corresponding decrease in NGDC's distribution rates would be necessary to reflect the fact that these costs have been shifted from base rates to a separate cost-recovery mechanism.[1] This would guard against double-recovery from ratepayers. The OCA would note, however, that the Section 1307(f) proceeding is not the appropriate proceeding for consideration of any such costs. Rather, these costs should be addressed in a base rate or other proceeding outside the limited schedule of a 1307(f) proceeding.

Section 62.185: Supplier Coordination tariff, business practices and standards.

A. Introduction.

In proposed Section 62.185, the Commission mandates that certain standards shall be implemented by all Pennsylvania NGDCs. While uniformity can be helpful in some circumstances, the OCA is concerned that certain standards cannot be applied to all Pennsylvania

[1] Sub-paragraph (d) of this provision reads: Before instituting the surcharge, a NGDC shall remove the amounts attributable to promoting retail competition from its base rates.

NGDCs without consideration of the uniqueness of each NGDC's operations and service territory. Each NGDC operating in the Commonwealth operates under different circumstances. Therefore, a "one size fits all" approach is not appropriate. Of the proposed mandates, the following are the most troubling:

> *Imbalance trading.* An NGDC shall facilitate NGS imbalance trading. An NGS's customers' natural gas usage shall be balanced against NGS deliveries on the same monthly schedule. For computational purposes relating to balancing, an NGDC shall eliminate separate pooling for an NGS's interruptible customers so they are deemed to be in the same operating pool.
>
> *Tolerance bands.* A tolerance band shall provide for a deviation in the volume of gas delivered of no less than 10 % of the volume nominated by the NGS, thus establishing a tolerance band that spans 90% to 110 % of the volume of gas nominated.
>
> *Cash out and penalties.* A NGDC shall cash out imbalances that fall within the 10 % tolerance band at 100% of the gas daily average at the applicable index for the pool level. Outside the 10% tolerance band, a multiplier of 110% for under-deliveries and 90% for over deliveries shall apply, except during periods of gas shortage requiring the issuance of an OFO to protect the safe and reliable operation of the NGDC system.

Proposed § 62.185(c)(3)(i), (ii) and (iii). The OCA's concerns with these mandates will be discussed below.

B. Imbalance Trading (Proposed Section 62.185(c)(3)(i))

Nearly two decades ago, the Public Utility Commission adopted regulations pertaining to the offering of natural gas transportation service by NGDCs. See 52 Pa.Code § 60.1, et seq. Section 60.1 of Chapter 60 reads as follows:

> The transportation of natural gas by jurisdictional gas utilities is in the public interest. Transportation service should be provided under terms, conditions and rates *which minimize the shifting of costs to retail customers* and provide the natural gas utility with an opportunity to recover the fixed costs incurred to serve the transportation service customers. The development of

> Pennsylvania natural gas should be promoted, because it will achieve benefits that accrue to gas utilities and their customers.

52 Pa.Code § 60.1 (emphasis added). As clearly set forth in § 60.1, while transportation of natural gas was determined to be in the public interest, the Commission emphasized that cost-shifting be minimized among the affected customer classes. It must also be remembered that in order to avoid unreasonable or discriminatory rates, all utilities must ensure that rates for one class of service are not unreasonably prejudicial and disadvantageous to customers in any other class of service. 66 Pa. C.S. §1304; Manufacturers' Association of Erie v. Pennsylvania Public Utility Commission, 407 A.2d 114, 47 Pa.Commw. 31 (1979). The Commission's proposed imbalance trading provisions may not meet this objective.

The Commission's proposed Section 62.185(c)(3)(i) specifies imbalance trading provisions to be applied by NGDCs with respect to NGS deliveries on behalf of the latter's customers. However, this Section does not address the potential costs that NGDCs may bear in order to facilitate imbalance trading. Further, this Section does not specify exactly how imbalance trading is expected to operate. Assuming that this Section is intended to allow NGSs to trade imbalances among themselves, adequate explanation of the purpose, potential costs and benefits have not been addressed. Since it is the sales/non-shopping customers of NGDCs that would pay for the gas supplies that NGDCs would use to balance their entire system when marketers over- or under-deliver their expected gas volumes to the systems, further analysis is necessary. For example, daily balancing requires marketers to balance their deliveries on a daily basis to ensure that NGDCs and their customers are fairly compensated when marketer over- or under-deliveries occur. Conversely, monthly balancing--as proposed in this Section--would allow for marketers to balance their deliveries on a monthly basis. This flexibility would benefit marketers, but NGDCs may need to have more supplies available to account for marketer monthly imbalances when balancing their gas systems. These additional supplies would be paid for by sales/non-shopping customers of the NGDCs. The OCA submits that, absent additional analysis of potential cost impacts, this proposed Section should be modified. Specifically, imbalance trading should be done in a manner that does not shift costs among customers and should be restricted to a daily schedule, rather than a monthly schedule. The OCA has shown these modifications in Annex A.

C. Tolerance Bands (Proposed Section 62.185(c)(3)(ii))

One of the primary areas where potential cost shifting from transportation customers to retail sales customers has been of concern is in the terms and conditions related to tolerance bands. Each NGDC's annual purchased gas cost proceeding has typically been the venue in which tolerance band concerns have been raised. In the past, the Commission has approved of tolerance bands designed in several ways, but all of which were designed to compensate PGC customers for the use of PGC resources. It has been the goal of the Commission to deter transportation customers (and the NGSs that provide their supply) from over- or under-deliveries, thereby reducing these customers' and their NGSs' reliance upon the use of NGDC system resources paid for by PGC customers.

The Commission's proposed 62.185(c)(3)(ii) states that NGDCs' tolerance bands "shall provide for a deviation in the volume of gas delivered of at least 10% of the volume nominated by the NGS, thus establishing a tolerance band that spans 90% to 110% of the volume of gas nominated." This +/-10% tolerance band would allow marketers operating on an NGDC's system to over- or under-deliver within 10% of its expected deliveries without incurring penalties. As with the Commission's proposed imbalance trading, such flexibility will benefit marketers, but is likely to harm NGDC customers who will shoulder the NGDC costs necessary to provide this flexibility.

Tolerance bands in the Commonwealth have been individually established based on the particular NGDC, the operations of its service territory, the level of customer shopping and the particular characteristics of the shopping customers. The present tolerance bands applicable in the service territories of Dominion Peoples and Columbia (the two NGDCs with the largest number of gas shopping customers) are presently set at +/-4% and 0%, respectively. Therefore, the Commission's proposal would more than double the present rate of Dominion Peoples and would only serve to shift costs to non-shoppers. When few customers shop, it is simpler for the NGDC to maintain system reliability and accommodate imbalances with its existing capacity resources. However, as the number of customers shopping increases, NGDCs have less control over their systems because the resources available to the NGDC to accommodate imbalances decline (due to mandatory capacity release to NGSs). Therefore, to maintain reliability as more customers shop, NGDCs would need to acquire more capacity resources or seek to reduce tolerance bands. Once again, additional capacity resources would be paid for by non-shopping customers. The OCA submits that this proposed provision should not be implemented as drafted. Each NGDC should continue to apply its specific tolerance band to its service territory. However, if the Commission desires to impose a "uniform" tolerance band across the Commonwealth, the OCA submits that, as set forth in Dominion Peoples' tariff, a tolerance band of no more than +/-4% should be used. The most substantial level of natural gas shopping occurs in Dominion Peoples' territory, so use of this NGDC's tolerance band as the model would be reasonable.

Further, increases in tolerance bands will likely have little impact on NGS participation in an NGDC's service territory, because, generally speaking, under each NGDC's retail choice program, NGSs are assigned firm pipeline transportation capacity and storage. The NGDC provides NGSs with the quantity of gas which the NGSs are to deliver on a daily basis and the NGS is aware of the estimated range of its customers' requirements for a particular month. Therefore, NGSs need not speculate as to the volumes to deliver to the NGDC's system. The NGDC retail choice programs are generally structured so that an NGS can purchase and deliver the same quantity of gas on each day during the month using the assigned firm transportation capacity. Then, the NGS can designate that any difference between the firm transportation quantity and the quantity of gas it is required to deliver to serve its customers be accommodated by the NGDC's storage. As a result, there is no need for NGSs to actually change the quantities purchased on a daily basis. Consequently, the need for increased tolerance bands is diminished.

The OCA has shown its proposed modification to utilize a +/-4% tolerance band in Annex A.

D. Cash-out and Penalties (Proposed Section 62.185(c)(3)(iii))

The OCA's concerns with the Commission's proposed cash-out provisions mirror those expressed with regard to the proposed tolerance bands. The Commission's proposed Section 62.185(c)(3)(iii) states that:

> An NGDC shall cash out imbalances that fall within the 10% tolerance band at 100% of the gas daily average at the applicable index for the pool level. Outside the 10% tolerance band, a multiplier of 110% for under-deliveries and 90% for over deliveries shall apply, except during periods of gas shortage requiring the issuance of an OFO[operational flow order] to protect the safe and reliable operation of the NGDC system.

See, Proposed Section 62.185(c)(3)(iii). Cash-out penalties have also been designed to apply to each particular NGDC, and the OCA submits that a uniform mandate is not appropriate. Further, cash-out provisions are also designed to reduce the likelihood of non-shopping customers subsidizing shopping customers. The Commission's proposed cash-out provision and penalties may increase this likelihood rather than reduce it. Further, as explained above, absent the need for NGSs to actually change the quantities purchased on a daily basis, the Commission's proposal for reduced cash-out provisions is diminished and can only lead to increased costs for ratepayers. However, if the Commission desires uniformity in this respect, the OCA recommends that the applicable tariff provisions of Dominion Peoples should be mirrored. In particular cash out imbalances that fall within a 4% tolerance band should be cashed out at 100% of the gas daily average at the applicable index for the pool level. Dominion Peoples' tariff also includes applicable provisions for exceeded tolerances beyond +/-4%. These provisions should also be included should the Commission desire uniformity. The OCA's proposed modifications are shown in Annex A.

E. Communication Standards and Formats.

Proposed Section 62.185 (d)(2) states that: "The Commission may, subject to notice and an opportunity to be heard, direct an NGDC to install and upgrade a billing system, electronic bulletin board, software and other communication or data transmission equipment and facilities to implement established electronic data communications standards and formats". The OCA submits that the Commission's proposal could affect many systems used by NGDCs in support of normal utility operations, such as issuing bills. Changes to the underlying systems can be disruptive and should not be undertaken without a thorough review of the implications and robust cost/benefit analysis.

III. CONCLUSION

The OCA appreciates the opportunity to comment on the Commission's proposed regulations. As set forth herein, the OCA submits that the Commission's proposed regulations are in need of substantial modifications as set forth in the Attached Appendix A.

Respectfully Submitted,

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Dated: December 1, 2009
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PENNSYLVANIA PUBLIC UTILITY COMMISSION

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The Office of Consumer Advocate's
Proposed Changes to
Annex A

ANNEX A

PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE
Subchapter F. NATURAL GAS DISTRIBUTION COMPANY BUSINESS PRACTICES

§ 62.181. General.

The use of a common set of business practices, including standard supplier tariffs, facilitates the participation of NGSs in the retail market, reduces the potential for mistakes or misunderstandings between NGSs and NGDCs, and increases efficiency in industry operations. This subchapter requires NGDCs to implement a standard supplier coordination tariff, business practices and communication standards and formats as directed by the Commission. ~~NGDCs are authorized to recover reasonable and prudently incurred costs of implementing and promoting natural gas competition in the Commonwealth.~~

§ 62.182. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Asset management – A function of the system operations of a NGDC relative to daily NGS and pipeline interactions relating to nominations, capacity, storage, delivery, balancing, reconciliation, penalties, forecasts and customer requirements, to assure safe, reliable natural gas service to the end user.

Balancing - The act of equalizing receipts and deliveries of gas into or withdrawals from an interstate gas pipeline or a NGDC's distribution system. Balancing may be accomplished daily, monthly or seasonally, with fees or penalties generally assessed for excessive imbalances.

Business practices - The use of a common set of formats, definitions and standards relating to business operations.

Capacity - The maximum quantity of natural gas that can be produced, transported, stored, distributed, or used in a given period of time under specified conditions.

Cash out - A generic term used to describe the corrective measures taken when a NGS's imbalance of natural gas supply in the system exceeds the prescribed tolerance.

City gate - The site where a NGDC receives and measures gas from a pipeline company.

Electronic bulletin board - A computer system that provides current natural gas information on nominations, interruptions, rates and other items.

Gas daily average - Index price for natural gas as published daily by *Platts Gas Daily.*

Imbalance - When a NGS receives or delivers a quantity of natural gas, then delivers or redelivers a larger or smaller quantity of natural gas to another party.

Intraday cycle – Under NAESB pipeline industry standards, one of two nomination cycles that permit a nomination to be made on the day of gas flow.

NAESB – North American Energy Standards Board - NAESB is a non profit standards development organization which develops business practice standards and communications and e-commerce protocols for the wholesale and retail natural gas industry.

NGDC - Natural gas distribution company - A natural gas distribution company as defined in 66 Pa.C.S. § 2202 (relating to definitions).

NGS - Natural gas supplier - A supplier as defined by 66 Pa.C.S. § 2202.

Nominations - A precise listing of the quantities of gas to be transported during any specified time period. A nomination includes all custody transfer entities, locations, compressor fueled and other volumetric assessments, and the precise routing of gas through the pipeline network. Nominations often create contract rights and liabilities.

OFO - Operational flow order – An order issued by a NGDC as defined at 52 Pa. Code § 69.11(relating to definitions).

PGC – Purchased gas cost – Natural gas costs which are collected, with adjustments, by NGDCs from their customers pursuant to 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments).

SCT - Supplier coordination tariff - The formal rules and regulations of a NGDC for providing NGS service to customers. It contains a compilation of all of the effective rate schedules of a particular company and the general terms and conditions of service.

Storage - Storing gas that has been transferred from its original location in underground reservoirs. Gas is usually stored in the summer for winter delivery reducing peak winter pipeline requirements. Storage can be in either the market or producing areas.

Timely cycle – Under NAESB pipeline standards, the initial nomination cycle where a nomination is due 12:30 p.m. prior to the day of gas flow.

Tolerance band - A range of acceptable values for the measured difference between the gas volume that is nominated to be delivered in a certain time frame and the gas volume that is delivered during that time frame by a NGS.

Uniform electronic transactions - Standard formats that allow all parties to develop the business process and automated systems needed to facilitate the exchange of business information in the Pennsylvania energy industry.

§ 62.183. NGDC customer choice system operations plan.

(a) A NGDC shall file a customer choice system operations plan for Commission review in order to comply with the provisions of this subchapter.

(b) The NGDC shall serve copies of the plan on the Office of Consumer Advocate, the Office of Small Business Advocate, and NGSs registered in the NGDC's service territory. Copies of the plan shall be provided upon request and shall be made available to the public on the NGDC's website.

(c) A customer choice system operations plan shall include the following elements:

(1) A SCT that complies with the provisions of this subchapter.

(2) Business practices and standards that comply with the provisions of this subchapter.

(3) Communication standards that comply with the provisions of this subchapter.

(4) Copies of standard agreements, forms or contracts that will be used by NGSs.

~~§ 62.184. NGDC cost recovery.~~

~~(a) As part of its next annual filing pursuant to 66 Pa.C.S. § 1307(f), a NGDC may include a proposed tariff rider to establish a nonbypassable reconcilable surcharge filed within the requirements of 66 Pa.C.S. § 1307 designed to recover the reasonable and prudently incurred costs of implementing and promoting natural gas competition within the Commonwealth.~~

~~(b) The surcharge shall be calculated annually and adjusted to account for past over- or under-collections in conjunction with the 1307(f) process to become effective with new PGC rates.~~

~~(c) The surcharge shall be recovered on a per unit basis on each unit of commodity which is sold or transported over its distribution system without regard to the customer class of the end user.~~

~~(d) Before instituting the surcharge, a NGDC shall remove the amounts attributable to promoting retail competition from its base rates. This may be done through a 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) rate case filed not less than 5 years after first seeking recovery through a 66 Pa.C.S. § 1307 nonbypassable mechanism.~~

~~(e) Until a NGDC which seeks a nonbypassable recovery of its costs of promoting retail competition files a base rate case under 66 Pa.C.S. § 1308(d)(relating to general rate increases), the NGDC shall eliminate the effect of recovery of these costs in base rates though the filing of a credit to its base rates equal to the amount in base rates. This may be accomplished through the use of a revenue neutral adjustment clause that would credit base rates for the costs associated with promoting retail competition that are currently reflected in base rates. Costs would be fully recoverable through a nonbypassable reconcilable surcharge. The adjustment clause would be established through the filing of a fully allocated cost of service study and a proposed tariff rider~~

~~in the NGDC's proceeding under 66 Pa.C.S. § 1307(f). The credit and surcharge shall be adjusted not less than annually through the 66 Pa.C.S. § 1307(f) process.~~

~~(f) The revenue neutral adjustment clause rider shall remain in effect until establishment of new base rates under 66 Pa.C.S. § 1308(d) which include a fully allocated cost of service study to remove these costs from base rates.~~

~~(g) The surcharge shall be subject to audit.~~

§ 62.18~~5~~4. Supplier coordination tariff, business practices and standards.

(a) *General.* The Commission may adopt best business practices and standards that will facilitate supplier participation in the retail natural gas market and will direct NGDCs and NGSs to comply with the practices and standards. NAESB standards and model agreements that are determined to be cost-effective and which remove market barriers for supplier participation will be considered for adoption.

(b) *Supplier coordination tariff.* The Commission may establish a standard SCT and will direct that a NGDC implement a SCT that conforms to the standard SCT. The standard SCT may be revised in accordance with Commission orders, policies and regulations. The current version of the standard SCT will be made available on the Commission website.

(1) A NGDC shall implement a SCT based on a standard format SCT that is consistent with its customer choice system operations plan.

(2) The NGDC shall file a SCT in accordance with Commission orders, policies and regulations. When the NGDC has an existing SCT, the NGDC shall file a tariff supplement.

(3) The NGDC's current supplier tariff or supplement shall remain in effect until the Commission approves a SCT or tariff supplement filed in compliance with this section.

(c) *Business practices and standards.* The Commission may establish best business practices and standards as necessary to implement the Act, and may direct their implementation by NGDCs and NGSs.

(1) A NGDC's implementation of business practices and standards shall be consistent with its customer choice system operations plan.

(2) A NGDC's business practices and the process by which they are adopted may not undermine existing negotiated settlements with NGSs, may not compromise the safety, efficiency, security and reliability of system operations, and may not be discriminatory.

(3) A NGDC shall implement the following standards:

(i) *Imbalance trading.* A NGDC shall facilitate NGS imbalance trading in a manner that does not shift costs among customers. A NGS's customers' natural gas usage shall be balanced against NGS deliveries on the same ~~monthly~~ daily schedule. For computational purposes relating to balancing, a NGDC shall eliminate separate pooling for a NGS's interruptible customers so they are deemed to be in the same operating pool.

(ii) *Tolerance bands.* A daily tolerance band should be established in each NGDC's Section 1307(f) proceeding which shall provide for a deviation in the volume of gas delivered of no ~~less~~more than ~~10~~4 % of the volume nominated by the NGS, thus establishing a tolerance band that spans ~~90~~96% to ~~110~~104% of the volume of gas nominated.

(iii) *Cash out and penalties.* A NGDC shall cash out imbalances that fall within the ~~10~~4% tolerance band at 100% of the gas daily average at the applicable index for the pool level. ~~Outside the 10% tolerance band, a multiplier of 110% for under-deliveries and 90% for over-deliveries shall apply except~~A multiplier to the applicable index for the pool level shall apply to cash out imbalances that are outside the 10% tolerance band. The multiplier shall be established in each NGDC's Section 1307(f) proceeding and be included in the NGDC tariff. A NGDC shall not be required to apply the multipliers during periods of gas shortage requiring the issuance of an OFO to protect the safe and reliable operation of the NGDC system.

(iv) *Nominations.* A NGDC shall support all four NAESB nominations cycles and shall support the timely cycle and at least one intraday cycle.

(v) *Capacity.* A NGDC shall provide full access to pipeline and storage capacity and will support daily nominations and delivery requirements that reflect current pool consumption conditions.

(d) *Communication standards and formats.* The Commission may establish electronic data communication standards and formats and may direct their implementation by NGDCs and NGSs. Standards and formats may be implemented for nominations and delivery requirements and customer enrollment, usage and billing and payments.

(1) A NGDC shall be responsible for NGS testing and certification in regard to approved electronic data communication standards and formats.

~~(2) The Commission may, subject to notice and an opportunity to be heard, direct a NGDC to install and upgrade a billing system, electronic bulletin board, software and other~~

~~communication or data transmission equipment and facilities to implement established electronic data communications standards and formats.~~

(~~3~~2) Communication standards and formats shall be revised in accordance with Commission orders, policies and regulations.

CERTIFICATE OF SERVICE

Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code §§ 62.181-62.185	:	Docket No.	L-2009-2069117
SEARCH Final Order and Action Plan for Increasing Effective Competition in Pennsylvania's Retail Natural Gas Supply Services Market	:	Docket No.	I-00040103F0002

I hereby certify that I have this day served a true copy of the foregoing document, Comments of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 1st day of December 2009.

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