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Philadelphia Gas Works

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December 1, 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 DEC - 8 AM 10:31
INDEPENDENT REGULATORY
PUBLIC COMMISSION

Re: **Philadelphia Gas Works' Comments to the May 1, 2009 Proposed Rulemaking Order; Docket No. L-2009-2069117**

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of Philadelphia Gas Works' Comments to the May 1, 2009 Proposed Rulemaking Order.

If you have any questions, please contact me.

Respectfully submitted,

Gregory J. Stunder

Enclosure

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

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INDEPENDENT REGULATORY
REVIEW COMMISSION

**Proposed Rulemaking: Natural Gas
Distribution Company Business Practices;
52 Pa. Code §§ 62.181-62.185**

Docket No. L-2009-2069117

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**COMMENTS OF PHILADELPHIA GAS WORKS
TO THE MAY 1, 2009 PROPOSED RULEMAKING ORDER**

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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*¹ (*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 May 1, 2009, the Pennsylvania Public Utility Commission (the "Commission") issued a Proposed Rulemaking Order (the "May 1 Order") setting forth the proposed addition of Subchapter F titled "Natural Gas Distribution Company Business Practices" at 52 Pa. Code §§ 62.181. This Proposed Rulemaking seeks to direct NGDCs to submit standard supplier coordination tariffs (SCTs), and to implement standard business practices and communication standards and formats that the Commission

¹ 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.

determines to be cost-effective and that remove market barriers. The proposed regulations also provide for NGDC recovery of reasonable costs prudently incurred directly attributable to the implementation. The May 1, 2009 Order and attached regulations (Appendix A) were published in the *Pennsylvania Bulletin* on October 17, 2009 (39 Pa.B. 6078) and interested parties were given forty-five days, or until December 1, 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 May 1 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. COMMENTS

General Comment

The May 1 Order announced the intent to initiate a stakeholder process that will run concurrently with the rulemaking and will provide an additional avenue for public input. The May 1 Order further announced that the stakeholder process will be used to develop standard supplier coordination tariffs (SCTs), and will make recommendations for the adoption of standard business practices for the retail natural gas market. PGW requests that this stakeholder process proceed before the final regulations related to this rulemaking are issued because there are many issues in this proposed rulemaking which mix residential customer and small customer

choice issues (i.e. the retail natural gas market) and issues related to large interruptible transportation customers (i.e. the wholesale natural gas market). PGW suggests that the stakeholder process will help clarify and differentiate the retail market and wholesale market issues.

PGW is concerned that without the ability to parse the issues which affect retail choice (which is the intended focus of the SEARCH process) from the issues which affect large interruptible transportation customers, the resulting regulations will be unclear. For example, the proposed subsection 62.185(a) directly addresses the retail market and clearly states that 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.” (emphasis added). Nonetheless, a later subsection of 62.185 (i.e. 62.185(c)(3)) sets forth regulations for imbalance trading, tolerance bands and cash out penalties which are issues that only affect wholesale customer supply. PGW also anticipates the same need for clarity among the proposed definitions in subsection 62.182 and recommends that the stakeholder process also address potential clarification of the definition subsection.

Section Comment

§62.185. Supplier coordination tariff, business practices and standards.

As discussed above, retail market and wholesale market regulations are not clearly identified within the same proposed subsection. In order to properly identify the following subsection as addressing a wholesale market issue and, additionally, to identify the appropriate time periods for imbalance trading, tolerance bands and cash outs/penalties, PGW recommends the following revisions (revisions underlined):

62.185 (c)(3) An NGDC shall implement the following standards regarding supplies for interruptible customers:

(i) *Monthly 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.

(ii) *Daily Tolerance bands.* A tolerance band 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.

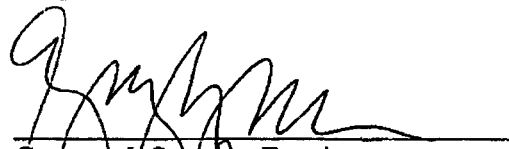
(iii) *Daily Cash out and penalties.* An NGDC shall cash out imbalances that fall within the 10% tolerance band at 100% of the gas daily average at the applicable index for the pool level. Outside the 10% tolerance band, a multiplier of 110% for under-deliveries and 90% for over deliveries shall apply,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

Subsection 62.185 also proposes a tolerance band and cash outs/penalties that are much looser than those set forth in PGW's gas service tariff and the tariffs of other Pennsylvania NGDCs. Tighter tolerance bands and stricter cash outs/penalties help maintain system reliability. Additionally, although PGW is able to operationally comply with the proposed regulations, the Commission must be aware that wider bands and lower cash outs and penalties will result in suppliers being able to bring less natural gas to an NGDC's system on the coldest days and bring more natural gas on days when the supplier needs to park excess supply. These situations provide economic advantage to the supplier and shift more costs to the NGDCs sales service customers. Ironically, this rulemaking is intended to benefit residential and small commercial customers but will likely be more costly to PGW's firm retail sales service 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, convene a stakeholder process and incorporate suggestions from the stakeholder process into the proposed regulations.

Respectfully Submitted,



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Attorney for Philadelphia Gas Works

Date: December 1, 2009

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APPENDIX A

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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.

§ 62.185. 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. A NGS's customers' natural gas usage shall be balanced against NGS deliveries on the same monthly 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 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.

(iii) 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.

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