COMMONWEALTH OF PENNSYLVANIA

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December 2, 2013

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the Recovery of Fuel Costs by Gas Utilities
Docket No. L-2013-2346923

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments, in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the enclosed Certificate of Service.

Sincerely,

Aron J. Beatty
Assistant Consumer Advocate
PA. Attorney ID# 86625

Enclosures
cc: Colin W. Scott/Law Bureau
Richard Layton/TUS
Barbara Sidor/Bureau of Audits
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, Pertaining to the Recovery of Fuel Costs by Gas Utilities	:	Docket No. L-2013-2346923

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

I. Introduction

By its Order entered May 9, 2013, the Pennsylvania Public Utility Commission (Commission) adopted a proposed Rulemaking Order (Order) designed to simplify and streamline information and procedures for small gas utilities gas cost rate filings. For purposes of the Order, small gas companies include all gas utilities that do not have revenues in excess of $40 million. The Office of Consumer Advocate (OCA) supports the Commission's efforts to improve gas cost rate procedures for small gas companies. In general, the modifications proposed by the Commission would improve administrative efficiency and provide greater accuracy as to the commodity portion of customer bills. For these reasons, the OCA supports the Commission's proposal to the extent it improves on the reporting requirements of small utilities. The OCA provides these additional Comments for consideration regarding the treatment of interest and rate design.

II. Treatment of Interest

The Commission has proposed to modify the interest calculations that are applied to gas costs. Currently, small gas companies are charged interest for over collections. As the Commission explained, "the primary objectives of this proposed rulemaking include amending existing Commission regulations to allow small gas utilities to collect interest from ratepayers on net under collections to be consistent with the rules applicable to gas utilities with revenues in excess of $40 million (1307(f) gas utilities)." Order at 3. While small gas utilities are currently charged interest when they receive revenues in excess of their actual gas costs, those same companies do not recover interest from ratepayers when they have to utilize company funds to purchase gas on behalf of ratepayers (*i.e.*, when there is an under collection of gas cost revenues from ratepayers).

The Commission proposes to modify its regulations so that small gas companies are subjected to the same regulations that apply to large gas companies. Specifically, the Commission proposes that the interest rate applied to both over and under collections by small gas utilities should be the interest rate as calculated for the large gas utilities under Section 1307(f)(5) of the Public Utility Code. Section 1307(f)(5) requires that interest charged to ratepayers for under collections be applied at the legal rate of interest, while interest charged to the company for over collecting from ratepayers be credited at the legal rate of interest plus two percent. 66 Pa.C.S. §1307(f)(5). Under Section 1307(f)(5), interest is charged and credited to ratepayers asymmetrically in order to remove the possible incentive of a company to over collect from ratepayers.

The Commission stated in its Order, "expecting small gas utilities to project, without error, annual gas supply costs and sales volumes – both highly variable factors subject to the fickle nature of market conditions and weather patterns – places an unreasonable burden upon them." Order at 13. In many instances, larger companies have greater resources available to more accurately assess future trends in gas pricing and weather variability. The OCA submits, however, that gas price forecasting may not be as significant an issue for small gas companies, particularly those that rely on local producers for supply. The issue identified by North East Heat & Light, for example, was one of taking advantage of lower cost supply that became available rather than forecasting error.

The OCA submits that the asymmetric interest treatment should be utilized for small gas companies at this time. Such treatment provides for the reasonable recovery of costs to the company while providing appropriate incentives to provide as accurate rates as possible. The OCA agrees with Commissioner Cawley though, that the interest rate used for small company over and under collections should be examined independently of what is used for large utilities.

In his Statement, Commissioner Cawley invited parties to comment on what they believe is the optimal interest rate to approve as part of this rulemaking proceeding.[1] With regard to the actual interest rate used, the OCA submits that for these small gas companies, tying the rate used for over collections to actual market conditions may be a more reasonable approach. The rate for under collections should similarly be tied to market or set at zero as many companies now do to avoid increasing customer rates as a result of this Rulemaking.

The OCA further submits that interest rates should not impede each company's ability to procure lower cost supplies when available. To the extent that procuring lower cost supply results in an over collection (where rates were set assuming higher cost gas), small

[1] As Commissioner Cawley noted in his Statement, proposed legislation would modify the interest calculation of large gas companies by changing the interest rate from the legal rate of interest to the prime rate for commercial borrowing "or at an interest rate which may be established by the commission by regulation."

companies should be encouraged to make such lower cost gas purchases without the fear that interest charges will result in financial harm. To address this possible issue, the OCA supports the adoption of interest rates that reflect market conditions experienced by small gas companies and the interim adjustment mechanism discussed below. The OCA submits that the interest rates used should reflect actual market conditions to prevent any incentives to over or under collect in a way that would work to the against the interests of consumers.

III. Gas Cost Rate Design

Under the current regulations, small gas companies are required to recover at least 90% of purchased gas costs through base rates, with up to 10% of gas costs being recovered through the Gas Cost Rate (GCR). Under this approach, fluctuations in gas prices typically results in annual changes to base rates. The Commission has proposed to eliminate the requirement that at least 90% of gas costs be placed in base rates. The Commission states that moving these costs out of base rates will ensure that customers see the true cost of gas, and that they can then compare that cost to their usage. The Commission proposes that 100% of gas costs should be part of the GCR seen on each customer's bill.

The OCA supports the Commission's proposed regulation modification that would place 100% of gas costs in the GCR. The OCA agrees with the Commission that separating gas costs out on the bill will provide each customer with a better understanding of their gas usage. See, Order at 14. Importantly, under the current regulations small gas companies modify their base rates frequently, often annually, without a full base rate review. The current ratemaking mechanism does not result in significantly greater rate stability because the gas component of base rates is modified so frequently. Creation of a "pure" GCR will provide added stability to delivery rates, the area that the gas company has far greater control of costs.

The Commission has further proposed the small gas companies be provided the opportunity to update costs over the course of the GCR year. Order at 16-17. In support of these changes, the Commission notes that GCR costs are projected over a 12-month period in which "gas costs can fluctuate greatly due to market demand, temperature, and customer usage." Order at 16. The OCA agrees with the Commission that natural gas prices have, and will continue, to be highly variable.

The Commission further notes that the current GCR mechanism, fixed annually, does not provide each small gas company the flexibility needed to make gas purchases that would benefit customers. The Commission states:

> Another example may occur when the small gas utility operator discerns that market conditions provide an opportunity for the utility to purchase gas at rates that are lower than projected. If a utility takes advantage of an opportunity to purchase gas at rates lower than initially projected, it is likely that overcollections will occur. On the other hand, if the utility does not act on the opportunity, its ratepayers lose because they will pay for gas at higher rates. Thus, under the Commission's present regulations, a small gas utility may be penalized for making the most of favorable market conditions when it projected paying higher costs over a twelve month period.

Order at 17. As discussed above, the OCA fully supports the Commission's assessment that small gas utilities should be provided the flexibility to procure gas when market conditions are favorable. The OCA submits that all gas utilities should take opportunities to reduce gas supply costs whenever possible – even if current rate mechanisms would result in a delay for ratepayers to see those benefits.

To the extent the Commission's proposed modifications to small gas company regulations would enhance the small gas companies' ability to reduce the cost of gas supply for the benefit of ratepayers, the OCA supports those efforts. The OCA would note, however, that the proposed regulations would allow small gas companies the opportunity to update, on one day's notice, the GCR at any time realized gas costs would result in a rate change of greater than 2 percent. Order at 17. The OCA is concerned that such flexibility may create customer confusion as rates could change multiple times in short periods, and on any day of any month, making budgeting particularly difficult for customers.

The OCA submits that it may be beneficial to limit the number of such interim updates to two updates per annual GCR period. The OCA submits that allowing such updates but limiting the number would achieve the Commission's stated goals while reducing potential customer confusion.

IV. Conclusion

As discussed above, the OCA supports the Commission's efforts to simplify and streamline information and procedures for small gas utilities gas cost rate filings. The OCA respectfully submits that the above Comments be considered when the Commission finalizes the Regulations on these matters.

Respectfully Submitted,

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December 2, 2013

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CERTIFICATE OF SERVICE

Re: Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the Recovery of Fuel Costs by Gas Utilities
Docket No. L-2013-2346923

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

Dated this 2nd day of December, 2013.

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