

Comments of the Independent Regulatory Review Commission



Pennsylvania Public Utility Commission Regulation #57-297 (IRRC #3038)

Recovery of Fuel Costs by Gas Utilities

January 16, 2014

We submit for your consideration the following comments on the proposed rulemaking published in the November 2, 2013 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

1. Section 53.66. Filing requirements for small gas utilities. – Consistency with statute; Reasonableness; Economic impact.

Interest rate applied to over and under collections

Subsection (d) specifies that the interest rate should be “as calculated in the manner specified in 66 Pa.C.S. § 1307(f)(5),” which states, in part:

. . . Refunds to customers shall be made with interest, at the legal rate of interest plus two percent, during the period or periods for which the commission orders refunds, and recoveries from customers shall include interest at the legal rate of interest

PUC Commissioner Cawley invited parties to comment on what they believe is the optimal interest rate, including five historical interest rate options. Valley Energy, Inc. responded that the proposed prime rate for commercial borrowing is the most optimal rate because it most accurately reflects the cost of service associated with net over and under collections. The PA Office of Consumer Advocate (OCA) commented that an asymmetric interest mechanism should be used, meaning a different rate should be used for over collections than under collections.

The PUC, as well as commentators, note that pending legislation (House Bill 1188) might modify the applicable interest rate for 1307(f) utilities; however, passage of this legislation is not guaranteed. The current statute, 66 Pa.C.S. § 1307(f)(5), specifies the rates to be applied to over and under collections. Regarding the interest rates included in the final regulation, the PUC should explain how those interest rates are consistent with the current statute, and are reasonable for both the utility and its customers.

2. Regulatory Analysis Form (RAF) – Regulations impacting small business.

We ask the PUC to revise its response to Question #15 of the RAF in order to ensure that the new criteria required by Act 76 of 2012 related to small businesses are met. The PUC should provide a citation to the relevant provisions of the federal definition of small business that were reviewed in the development of the rulemaking and an analysis of their applicability or inapplicability to the regulation.