

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency
Pennsylvania Public Utility Commission

(2) Agency Number: L-2013-2346923
Identification Number: 57-297

IRRC Number: 57-297

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(3) PA Code Cite: 52 Pa. Code §§ 53.61-53.68

(4) Short Title: Recovery of Fuel Costs by Gas Utilities

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Colin W. Scott, 717-783-5949, colinscott@pa.gov
Secondary Contact: Richard Layton, 717-214-9117, rlayton@pa.gov
Barbara Sidor, 412-4239301, bsidor@pa.gov

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
 Final Regulation
 Final Omitted Regulation

- Emergency Certification Regulation;
 Certification by the Governor
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The Gas Cost Rate (GCR) mechanism allows small gas utilities to recover purchased gas costs after receiving express Commission approval. Small gas utilities submit GCR filings based on projected costs which are subsequently reconciled to actual costs. The companies must demonstrate that they are pursuing a least cost fuel procurement policy. The purpose of the proposed rulemaking is to revise and streamline the information and procedures small gas utilities use when submitting GCR filings to the Commission and to create consistency between large and small gas utilities with respect to small gas utilities' ability to collect interest from customers for net undercollections.

(8) State the statutory authority for the regulation. Include specific statutory citation.

66 Pa. C.S. §§ 501, 504, 523, 1301, 1307, 1501; the Commonwealth Documents Law, 45 P.S. § 1201 *et seq.*, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

66 Pa. C.S. §§ 1301, 1307.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Prior to the passage of the Natural Gas Choice and Competition Act in 1999 (Act), neither 1307(f) utilities nor small gas utilities were permitted to recover interest from ratepayers on net undercollected gas costs. However, since the Act passed, 1307(f) utilities have been allowed to recover interest on undercollections causing inequity to small gas utilities. No justification exists for this differential treatment; small gas utilities operate in a similar manner to large utilities and often encounter additional obstacles due to their diminished purchasing options and capabilities.

In consecutive years, 2009 and 2010, North East Heat and Lighting Company (NEH&L) sought relief from interest charges once its purchasing strategies allowed the company to take advantage of low gas prices and to pass savings on to its customers. NEH&L did not forecast rates that were unreasonable and requested equitable relief in the form of an exemption or a reduction in the interest owed on its overcollections. In 2009, the Commission granted the requested relief. However, in 2010, while the Commission denied NEH&L's request for relief, it did grant the company's request to have the Commission's Small Gas Task Force (Task Force) examine issues involving the GCR mechanism as well as interest rates issues raised by NEH&L.

The proposed amendments to the regulation will allow small gas utilities to continue collecting interest on net overcollections as well as to collect interest on net undercollections at a symmetric rate, bringing consistency to large and small gas utilities. The Commission recommends that small gas utilities collect this interest at the prime rate for commercial borrowing, which has been set at 3.25% since 2008. Additionally, the Commission proposes to reduce, consolidate and simplify the schedules small gas utilities use to file gas cost rate tariffs.

The Commission also recommends eliminating the requirement that 90% of annualized gas costs be rolled-in to base rates because retail customers should be able to see a GCR in the line charge of their bill that represents 100% of their gas costs. When this requirement commenced, gas costs fluctuated greatly and a roll-in was one way to avoid rate shock. However, now emphasis is placed on providing reliable information to customers so that they are able to evaluate the costs of gas compared to their usage.

Finally, the Commission proposes a procedure that allows small gas utilities to make interim rate filings that become effective on ten days' notice. If fluctuations in gas prices cannot be addressed quickly, higher costs may be levied against small gas utilities in the form of interest on overcollections or against ratepayers in the form of higher gas rates.

Therefore, small gas utilities will benefit from the ability to collect interest on undercollections like their large utility counterparts, and from streamlined GCR filing requirements. At the same time, ratepayers will benefit from seeing a GCR in the line charge of their bill that represents 100% of their gas costs and may see lower gas costs when their gas company is able to take advantage of favorable market conditions.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

N/A

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The changes to regulations proposed only affect small gas utilities and are not significant enough to warrant comparison with other states. The proposed changes should have no impact on Pennsylvania's ability to compete with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No, the changes only affect the preparation of a procedural filing. The proposed regulations will not affect any other regulations of the Commission or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Commission's Small Gas Task Force distributed a survey to small gas utilities asking for their views on current procedures. The Task Force also met with small gas utilities to discuss the GCR. North East Heat & Lighting has incurred interest when it was proactive in reducing gas costs and passing those saving on to customers. This led the Commission to order its Task Force to investigate the issue.

On May 9, 2013, the Commission issued a Proposed Rulemaking Order proposing: (1) to allow small gas utilities to collect interest on net undercollections; (2) to collect interest on net undercollections at the rate specified at 66 Pa. C.S. § 1307(f)(5) to be consistent with large gas utilities; (3) to consolidate and simplify the schedules small gas utilities use to file GCR tariffs; (4) to eliminate the requirement that 90% of annualized gas costs be rolled-in to base rates; and (5) to allow small gas utilities to make interim rate filings to become effective on one day's notice. The Commission received comments to its Proposed Rulemaking Order from the Office of Consumer Advocate, IRRC, and from Valley Energy, Inc., which also filed reply comments.

The Commission reviewed and considered all of these comments in the Final Rulemaking Order and in connection with modifying its recommendations and drafting final form regulations.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

There are currently seventeen (17) natural gas utilities that will be affected by the proposed amendments to the Commission's regulations. These utilities include:

Group I

North East Heat & Light Co.
Valley Energy Inc.

Group II

Able Co. Ltd.
Andreassi Gas Co.
C.E. Dunmire Gas Co.
Chartiers Natural Gas Co. Inc.
Herman Oil & Gas Co. Inc.
Herman Riemer Gas Co.
Kaib & Kaib Gas Co.
Larkin Oil & Gas Co.
Leatherstocking Gas Co. LLC
Orwell Natural Gas Co. (has two divisions – CRG Inc. and Walker Gas & Oil Co.)
Pike County Light & Power Co.
Pine-Roe Natural Gas Co. Inc.
SAR Gas Co.
Sigel Gas Co.
Wally Gas Co.

These utilities serve a combined total of roughly 14,300 customers. More than 12,830 of those customers are residential, while more than 1,450 customers are in the business sector (i.e., commercial, industrial or other).

All small gas utilities will benefit from the proposed consolidated list of schedules used to file GCR tariffs because redundant and excess schedules will be eliminated. This proposal recognizes the staffing limitations of small gas utilities.

The time schedule that Group I small gas utilities use to submit preliminary and final GCR filings to the Commission will differ from what is currently required. In order to transition to a unified filing schedule, Group I utilities will be required to submit a one-time reconciliation statement for the fourteen (14) months ended August 31, 2016.

Allowing small gas utilities to collect interest on net undercollections, and applying a symmetric and uniform rate of interest (the prime rate for commercial borrowing) to both over and under collections, are equitable to small gas utilities because it allows for identical treatment.

(16) List the persons, groups or entities, including small businesses that will be required to comply with the regulation. Approximate the number that will be required to comply.

The proposed changes affect procedures to which small gas utilities using a GCR currently comply. These amendments will not require other groups or entities to make changes. Therefore, the entities listed above in question #15 will be required to comply with the regulation.

The Commission reviewed the standards set forth by 13 CFR § 121.201 and the U.S. Small Business Administration Table of Small Business Size Standards Matched to North American Industry Classification System (NAICS) Codes to determine the applicability of this rulemaking to small businesses. The standards for small business classification for NGDCs are as follows:

Sector 22 – Utilities

Subsector 221 – Utilities	Size Standards - # of Employees
221210 Natural Gas Distribution	500

As per these standards, Natural Gas Distribution entities (#221210) with 500 employees or less qualify as “small businesses.” Currently, all 17 of the small gas utilities regulated by the Commission have 500 employees or less and thus qualify as “small businesses.”

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The changes are to procedures in the GCR filing. The only new financial impact on a utility’s customers occurs when the utility is undercollected; customers will be liable for interest. This procedure is the same for customers of large gas utilities, albeit currently at a different interest rate; 1307(f) utilities

currently pay interest on net overcollections at the legal rate of interest plus 2% and receive interest from customers at the legal rate of interest (6%). However, utilities are still required to monitor their operations so as to not become materially over or under collected. The benefits of the regulatory changes are a more user-friendly GCR filing that will permit small gas utilities to operate more efficiently and in consonant with large gas utilities and a more informed customer base.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The GCR filing will be more concise so that small gas utilities will be able to prepare their own filings or incur lower costs paying an outside company to prepare them. There will be fewer errors because the roll-in costs to base rates will be eliminated. Interim filings will provide opportunity for small gas utilities to proactively and effectively manage over/under collections.

The only cost incurred by customers will be liability for interest on undercollections. However, the majority of residential customers are served by large gas utilities that are presently permitted to collect interest on undercollections. Small gas utilities will still be required to monitor operations so as to not become either materially over or under collected.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Small gas utilities should see savings by being able to prepare their own GCR filing instead of paying outside accountants or attorneys. Even if these utilities use professionals, costs should be reduced because it will take less time to prepare the filing.

Since only small gas utilities are affected by the proposed changes, the costs and/or savings associated with compliance is immaterial. The greatest savings should occur with the ability of small gas utilities to make interim filings on ten days' notice. This provision will enable small gas utilities to react efficiently to adjust their rates so as to not become materially over or under collected.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Proposed changes only affect GCR filings. Local governments will not be required to make any changes to comply with the amended regulations.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

Proposed changes only affect GCR filings. State governments will not need to make any changes to comply with the amended regulations.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The proposed amendments to the Commission's recovery of fuel costs regulations do not result in additional legal, accounting or consulting procedures.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

The changes proposed in this rulemaking are designed to promote consistency and efficiency for small gas utilities. Any savings or costs to the local community, local government, or state government are immaterial.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						

REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(23a) Provide the past three year expenditure history for programs affected by the regulation. N/A

Program	FY -3	FY -2	FY -1	Current FY

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Small gas utilities serve mainly residential customers and are small businesses. The proposed changes will benefit these small businesses by giving them greater flexibility and ability to recover interest on undercollections. The proposed changes are procedural and should have no adverse effect on other small businesses.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

N/A

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Commission considered the alternative of leaving the subject regulations in their current state. This alternative was rejected because the Commission believes that when the proposed changes are considered in their entirety, small gas utilities will operate and complete GCR filings more efficiently.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

The proposed procedural changes do not produce a material cost increase. Therefore, no regulatory flexibility analysis was conducted.

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

N/A

(28) If data is the basis for this regulation, please provide a description of the data; explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data was obtained except for a survey of small gas utilities.

(29) Include a schedule for review of the regulation including:

- | | |
|---|------------------------------------|
| A. The date by which the agency must receive public comments: | <u>N/A</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>3rd quarter 2015</u> |
| D. The expected effective date of the final-form regulation: | <u>upon publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>upon publication</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The GCR process, even if it is revised to incorporate the proposed changes, will still have to be reviewed before any new or interim rates are approved and will be subject to audit.

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**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-2013-2346923/57-297

DATE OF ADOPTION May 7, 2015
Rosemary Chiavetta

BY _____
Rosemary Chiavetta

TITLE Secy
(SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

BY *Bohdan R. Pankiw*
Bohdan R. Pankiw
Chief Counsel

5-7-2015
DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-2013-2346923/57-297
Final Rulemaking
Recovery of Fuel Costs by
Gas Utilities
52 Pa Code, Chapter 53

The Pennsylvania Public Utility Commission on May 7, 2015, adopted a final rulemaking order designed to simplify and streamline information and procedures small gas utilities use when submitting gas cost rate filings with the Commission. The contact person is Assistant Counsel Colin Scott, Law Bureau, 717 783-5949

EXECUTIVE SUMMARY

L-2013-2346923/57-297

Final Rulemaking

**Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the
Recovery of Fuel Costs by Gas Utilities**

In order to evaluate the operational and financial viability of small natural gas utilities within the Pennsylvania Public Utility Commission's (Commission) jurisdiction, the Commission directed the establishment of a Small Gas Task Force (Task Force) consisting of internal staff from the Commission's Law Bureau, Bureau of Technical Utility Services, Bureau of Audits and the Bureau of Investigation and Enforcement. In its October 28, 2011 Final Order regarding a request for relief from interest charges by North East Heat and Lighting Company (NEH&L), the Commission granted NEH&L's request that the Task Force examine issues involving the Gas Cost Rate mechanism as well as interest rate issues as applicable to small gas utilities. After a period of study and discussion, the Task Force determined that the Commission should amend its regulations to streamline the information and procedures small gas utilities use when submitting Gas Cost Rate filings with the Commission.

Specifically, in this Final Rulemaking Order the Commission proposes to implement the following changes to its regulations: (1) classify all natural gas utilities not qualifying for 1307(f) treatment as small gas utilities; (2) modify the schedules included in small gas utilities' GCR filings for purposes of efficiency; (3) provide small gas utilities with uniform time schedules to allow more accurate gas cost projections as winters approach; (4) allow small gas utilities to collect interest, at the prime rate for commercial borrowing, on both net over and under collections from ratepayers; (5) eliminate the requirement that at least 90% of a small gas utility's annualized gas costs be rolled into base rates; and (6) implement a GCR interim tariff filing procedure to be effective on ten days' notice.

The contact persons for legal matters for this proposed rulemaking is Colin W. Scott, Assistant Counsel, Law Bureau (717) 783-5949 and Robert F. Young, Deputy Chief Counsel, Law Bureau (717) 787-4945. The contact persons for technical matters for this proposed rulemaking are Richard Layton, Bureau of Technical Utility Services (717) 214-9117, or Barbara Sidor, Bureau of Audits (412) 423-9301.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held May 7, 2015

Commissioners Present:

Gladys M. Brown, Chairman
John F. Coleman, Jr., Vice Chairman
James H. Cawley
Pamela A. Witmer
Robert F. Powelson

Final 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

FINAL RULEMAKING ORDER

BY THE COMMISSION:

By Order entered May 9, 2013, the Pennsylvania Public Utility Commission (Commission) issued a Proposed Rulemaking Order to amend its regulations at 52 Pa. Code §§ 53.61 through 53.68, "Recovery of Fuel Costs by Gas Utilities." The purpose of this rulemaking is to simplify and streamline the information and procedures small gas utilities use when submitting gas cost rate filings with the Commission. Comments to the Proposed Rulemaking were filed by the Independent Regulatory Review Commission (IRRC) and the Office of Consumer Advocate (OCA), as well as Valley Energy Inc., which also filed reply comments. The Commission has reviewed those comments and reply comments and now issues this Final Rulemaking Order.

Background and Procedural History

On January 15, 2009, the Commission directed the establishment of a Small Gas Task Force (Task Force). Since its establishment, the Task Force has, among other tasks, evaluated the operational and financial viability of small natural gas utilities within the Commission's jurisdiction, met with small gas utilities operating in Pennsylvania to discuss gas safety issues, provided an overview of the standard rate case process as well as the "short form" process, and created a package of documents¹ and a webpage on the Commission's website to help meet the gas utilities' anticipated needs.² The webpage is meant to provide a one-stop location for small gas utilities to access the forms and information needed for regulatory compliance.

On October 2, 2009, the North East Heat and Light Company (NEH&L) submitted its 2009/2010 annual gas cost rate (GCR) filing, pursuant to 52 Pa. Code § 53.66 (related to filing requirements), to become effective November 1, 2009. NEH&L sought relief from interest charges, pursuant to section 53.66(d) (related to overcollections), for the twelve-month GCR reconciliation period that ended August 31, 2009. NEH&L's overcollections were the result of its purchasing strategy which allowed the company to take advantage of rapidly falling natural gas prices and to pass those savings on to its customers. NEH&L filed an interim GCR when it realized that there would be significant overcollections, thereby seeking to minimize their accrual.

¹ The package of documents created to assist small gas utilities included the following: an overview of the PUC ratemaking process; instructions and forms for filing the refined Short Form base rate case; a model tariff; a sample affiliated interest agreement; requirements and procedures for terminating service to customers; an explanation of the difference between base rates and gas cost rates; a sample press release; sample talking points for addressing consumer/media questions; information on meeting the Annual Report filing requirements; and a list of PUC contacts.

² See webpage at:

http://www.puc.pa.gov/utility_industry/natural_gas/committees_and_working_groups/small_gas_task_force.aspx

The Commission granted equitable relief to NEH&L in the form of reduced interest rates on its overcollections, but emphasized that NEH&L's situation was unique in that it was a one-time partial waiver of the interest rate. *See* Commission Docket No. M-2009-2134358, (Order entered December 17, 2009).

The following year, on November 24, 2010, NEH&L similarly requested relief and exemption from interest charges on overcollections that accrued during the 2009/2010 GCR year. However, this time the Commission entered a Final Order denying NEH&L's request for relief. *See* Commission Docket No. P-2010-2214432 (Final Order entered October 28, 2011). The Commission reasoned that (1) the amount of interest was markedly different from the previous GCR year in which relief was granted; (2) the extraordinary circumstances such as the unusually low gas prices in the winter of 2008/2009 were not clearly evident in this year's request; and (3) NEH&L did not file an interim GCR to mitigate overcollections as it had done previously. NEH&L argued that interest rates on overcollections were harmful because NEH&L was punished by an excessive interest rate even though it engaged in prudent business practices to procure low cost fuel below the GCR cost. Despite denying NEH&L's requested exemption, the Commission did grant NEH&L's request for the Task Force to examine issues involving the GCR mechanism and to review interest rate issues raised by NEH&L, as applicable to small gas utilities.

The recommendations of the Task Force are the subject of the instant rulemaking proceeding. The Commission entered its May 9, 2013 Proposed Rulemaking Order to proffer changes that would streamline small gas utilities' GCR filings and better accommodate and consider the limited resources of these utilities in comparison to large gas utilities. Also, the Commission advanced changes to interest rate assessments to reflect industry standards and the current natural gas market, and to create consistency between large and small gas utilities.

Specifically, the Commission proposed the following: (1) classifying all natural gas utilities not presently qualifying for 1307(f) treatment as small gas utilities; (2) modifying the schedules included in small gas utilities' GCR filings by eliminating redundant and unnecessary schedules, and consolidating others for purposes of efficiency; (3) providing small gas utilities with uniform time schedules to allow more accurate gas cost projections as winters approach; (4) eliminating the requirement that at least 90% of a small gas utility's annualized gas costs be rolled into base rates; (5) implementing a GCR interim tariff filing procedure to be effective on one day's notice; and (6) allowing small gas utilities to collect interest, at the interest rate specified at 66 Pa. C.S. § 1307(f)(5), on both net over and under collections from ratepayers. The Commission specifically invited comments on its proposed use of the same interest rate that regulates large gas utilities, 66 Pa. C.S. § 1307(f)(5), or, in the alternative, other interest rates with evidence supporting their use.

The Commission received comments to its proposed revisions from IRRC and the OCA, and both comments and reply comments from Valley Energy, Inc. Those comments are summarized below.

Comments to the Proposed Rulemaking Order

IRRC's Comments

In its comments, IRRC acknowledges that the Commission specifically invited interested parties to comment on what they believe is the optimal interest rate to be applied to over and under collections. The Commission, in its Proposed Rulemaking Order, proposed that interest rates should be calculated as specified at 66 Pa. C.S. § 1307(f)(5). IRRC also recognizes that the Commission and commentators noted that pending legislation (House Bill 1188) may modify the applicable interest rate for 1307(f) gas utilities, but stated that passage of this legislation is not guaranteed. Therefore, IRRC specifies that the Commission should explain how the interest rates included in its final

regulation are consistent with the current statute and are reasonable for both utilities and their customers.

IRRC also comments that the Commission should revise its response to Question 15 of the Regulatory Analysis Form it completed in conjunction with its Proposed Rulemaking Order to ensure that the new criteria required by Act 76 of 2012, intended to improve State rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses, are met.

With respect to IRRC's latter comment that the Commission revise its Regulatory Analysis Form, we will appropriately amend our answer to Question 15 when we submit our final Regulatory Analysis Form. As to IRRC's other comments, they will be addressed in the **Discussion** section of this Final Rulemaking Order.

Valley Energy Inc.'s (Valley) Comments

In its comments, Valley commends the Commission for addressing the burdens that current regulations have on small gas utilities, and encourages the Commission to adopt revised regulations that eliminate unnecessary differential treatment between small and large gas utilities, while also recognizing the operational and staffing limitations small utilities face. Valley agrees with the Commission's proposed revisions to 52 Pa. Code § 53.66 to eliminate redundancies and excess schedules. Valley also supports the Commission's proposal to eliminate the distinction between Group I and Group II gas utilities and to implement a universal filing schedule for small gas utilities to make their annual GCR filings. Valley has no objection to the Commission's proposal to eliminate its current requirement that 90% of small gas utilities' annualized costs be rolled into base rates. The Commission proposed this elimination to ensure that the GCR line charge of customers' bills represents 100% of gas costs.

As the Commission's proposed amendment to 52 Pa. Code § 53.66(c) would require all small gas utilities to file reconciliation statements under 66 Pa. C.S. § 1307(e) by October 1 of each year, for the twelve month period running September 1 through August 31, Valley requests guidance from the Commission regarding the implementation and intended procedure to be used during the transition year. Valley seeks guidance because it, and all other Group I gas utilities, must currently file reconciliation statements by July 31 for the period of July 1 through June 30. This transition would cause Valley's rates to be in effect for 14 months rather than a 12-month period.

Finally, while Valley supports the Commission's proposal to allow small gas utilities to collect interest from ratepayers on net under collections consistent with practices allowed for large gas utilities, it questions the proposal to utilize the interest rate specified at 66 Pa. C.S. § 1307(f)(5). Valley recommends the prime rate for commercial borrowing as the most optimal rate to apply to both over and under collections because it accurately reflects the cost of service associated with such collections more than the residential mortgage rate or the methodology in section 1307(f)(5). Valley notes that the prime rate for commercial borrowing more closely reflects the interest conditions faced by NGDCs.

OCA Comments

The OCA, in its comments, generally supports the Commission's efforts to improve GCR procedures and reporting requirements for small gas utilities. The OCA submits that the interest rate applied to over and under collections for small gas utilities should be examined independently of what large gas utilities use. The OCA recommends an asymmetric interest mechanism, meaning a different rate should be used for over collections than under collections.³ The OCA suggests that the interest rate used for

³ Currently, 66 Pa. C.S. § 1307(f)(5) requires interest charged to ratepayers for net under collections to be applied at the legal rate of interest, while the interest charged to large gas utilities for net overcollections are credited at the legal rate plus two percent.

either over or under collections should be tied to actual market conditions and noted that interest rates should not impede a company's ability to procure lower cost supplies when available.

The OCA supports the Commission's proposed amendment that would require 100% of gas costs to appear in the GCR rather than having a large percentage rolled into base rates. The OCA states that this revision will provide added stability to delivery rates, the area the gas company has greater control over. The OCA encourages all gas utilities to take opportunities to reduce gas supply costs when possible, even if those benefits would not result immediately.

Finally, the OCA comments that the proposed revision allowing small gas utilities to update the GCR on one day's notice at any time that realized gas costs would result in a rate change of greater than two percent may create customer confusion. The OCA notes that rates could change multiple times in short periods and make budgeting particularly difficult for customers. To counter this concern, the OCA suggests that it may be beneficial to limit the number of such interim updates to two updates per annual GCR period.

Valley Reply Comments

In its reply comments, Valley responds to the comments of the OCA by recommending that the Commission forego the OCA's suggestion to use an asymmetric interest treatment for small gas utilities. Valley opposes the recommendation to impose any additional interest percentage for net overcollections to the interest rate the Commission ultimately adopts. Finally, Valley opposes the OCA's recommendation to restrict the number of interim GCR filings to two per annual GCR period. Valley contends that this limit is contrary to the Commission's intent to "provide small gas utilities with a means to better manage their operation while remaining aware of their

limited capabilities and resources.” Valley states that allowing small gas utilities to regularly file interim rate changes will limit variances between actual costs and billed GCR rates.

Discussion

Interest Rate

In its comments, IRRC requests that the Commission explain how the interest rates included in its final regulation are: (1) consistent with the current statute; and (2) are reasonable for utilities and their customers.

In response to IRRC’s first inquiry regarding how the interest rate proffered by the Commission is consistent with our current statutory mandate, the Commission retains authority and discretion of interest rate impositions on over and under collections for small gas utilities. *See* 66 Pa. C.S. § 1307(b).⁴ Prior to the passage of the Natural Gas Choice and Competition Act (Act) in 1999, section 1307(f) required large gas utilities to refund to their customers natural gas revenues that exceeded the amount of actual natural gas costs incurred with interest at the residential mortgage rate. Section 1307(f) also directed large gas utilities to recover from their customers any amount by which the actual gas expenses incurred exceeded the revenues collected. However, at the time, large gas utilities were not able to collect interest from customers on these under collections. Pursuant to the Act, 66 Pa. C.S. § 1307(f) was amended to require that refunds to customers be made, with interest at the legal rate of interest plus two percent, and that recoveries from customers include interest at the legal rate of interest.

⁴ 66 Pa. C.S. §1307(b) states that “The commission, by regulation or order, upon reasonable notice and after hearing, may prescribe for any class of public utilities, except common carriers and [large gas utilities], a mandatory system for the automatic adjustment of their rates, by means of a sliding scale of rates or other method, on the same basis as provided in subsection (a), to become effective when and in the manner prescribed in such regulation or order.” By Commission Order entered on May 21, 1978, at Commission Docket No. M-78050055, the Commission established a constant and uniform adjustment rate for gas cost charges.

However, no similar detailed framework was mandated for small gas utilities either prior to or following the passage of the Act. The General Assembly has instead chosen to keep small gas utilities under the broader statutory provisions of section 1307(a) and (b) which: (1) has no legislative proscription regarding the issue of interest on over and under collections; and (2) leaves authority with the Commission to permit small gas utilities to collect interest on net under collections. Thus, the Commission, in order to promote consistency with large gas utilities, has now chosen to permit small gas utilities to calculate and collect interest in the manner specified at 66 Pa. C.S. § 1307(f)(5). This decision by the Commission is consistent with its statutory authority.

IRRC's second inquiry requests that the Commission explain how the interest rate it chooses to implement is reasonable for both utilities and consumers. As stated in the Proposed Rulemaking Order, allowing small gas utilities to collect interest on net under collections represents a departure from prior Commission policy. The Commission determined that its prior position disallowing the collection of interest on under collections placed an unfair burden on small gas utilities because it required projecting, without error, volatile annual gas supply costs and sales volumes. No justification exists for differential treatment between large and small gas utilities on the recovery of interest on net under collections.

In its comments, the OCA states that the interest rate applied to over and under collections for small gas utilities should be examined independently of what large gas utilities use, and recommends that the interest rate be tied to market conditions. Valley's comments propose the prime rate for commercial borrowing as the optimal interest rate.

After reviewing the comments filed, the Commission will amend the language presented in its Proposed Rulemaking Order, which would have tied the interest rate

applied to both over and under collections by small gas utilities to 66 Pa. C.S. § 1307(f)(5) (“Refunds to customers shall be made with interest, at the legal rate of interest plus two percent, during the period or period for which the commission orders refunds, and recoveries from customers shall include interest at the legal rate of interest ...”). The Commission agrees with the comments of the OCA that the interest rate applied to over and under collections for small gas utilities should be examined independently of what large gas utilities use to determine which model best serves the public interest. We also agree with the comments of the OCA and Valley respectively that advocate that the interest rate applied should be tied to actual market conditions. Specifically, Valley recommends that the Commission use the prime rate for commercial borrowing, which is lower than the legal rate of interest,⁵ as well as publicly known and available, and transparent. This particular market based approach will result in immediate benefits for customers and utilities. If significant, fundamental changes that affect interest rates occur in the markets in the future, the methodology we adopt today may be revisited.

As the OCA acknowledges in its comments, interest rates should not impede a company’s ability to procure lower gas cost supplies when available. This rulemaking stemmed from a situation involving North East Heat and Lighting Company (NEH&L); its purchasing strategy allowed it to take advantage of rapidly falling natural gas prices and to pass those savings along to customers. The Commission’s policy prior to this rulemaking punished NEH&L by assessing an excessive interest rate even though the company engaged in prudent business practices. The cost of capital for purchasing natural gas in advance of the time customers will pay for the gas is a legitimate cost of service and should be recoverable in rates. Allowing small gas utilities to collect interest at the prime rate for commercial borrowing is reasonable because it enables utilities to take advantage of lower gas supply prices and pass those benefits onto customers.

⁵The prime rate for commercial borrowing has been set at 3.25% since 2008.

In its comments, IRRC explicitly mentions pending legislation (House Bill 1188) that the Commission acknowledged in its Proposed Rulemaking Order and that other commenters noted. House Bill 1188 may modify the applicable interest rate for large gas utilities from the legal rate of interest to the prime rate for commercial borrowing. By directing small gas utilities to apply the prime rate for commercial borrowing at this juncture rather than the legal rate as currently applied to large gas utilities, the Commission acknowledges that it would not be in the public interest to require customers and utilities to incur higher interest rate costs merely because the General Assembly adopted a different standard for large utilities during an era of higher interest rates.

Additionally, as currently implemented, section 1307(f)(5) applies an asymmetric interest rate to collections for large gas utilities. In its comments, the OCA advocates that the interest rate adopted by the Commission should continue in this fashion. The OCA argues that asymmetric interest treatment provides for the reasonable recovery of costs to the company while providing appropriate incentives to provide as accurate rates as possible. In contrast, Valley contends that an asymmetric rate creates an additional obstacle to achieving equitable regulatory treatment for small gas utilities.

The Commission does not find the rationale for an asymmetric interest rate compelling. No data has been provided to demonstrate that an asymmetric interest rate results in more accurate gas projection. In fact, an asymmetric rate may unjustly penalize small gas companies in years they underestimate their costs and may create an unintended incentive to underestimate gas costs every year, resulting in unnecessarily higher interest expenses in the long term.

Moreover, the Commission has (1) supported House Bill 1188 to eliminate the asymmetric, non-market based interest rate standard in the Public Utility Code for large gas utilities; and (2) proposed eliminating the asymmetric interest rate standard used in automatic adjustment clauses for default service in its Proposed Rulemaking Order at

Docket No. L-2014-2421001.⁶ In the Proposed Rulemaking Order regarding Automatic Adjustment Clauses Related to Electric Default Service, the Commission proposes to use symmetric rates, the prime interest rate, for both over and under collections. The Commission stated that the prime interest rate was most appropriate because that rate was most commensurate with market rates. The same rationale applies to the instant rulemaking.

Through these measures, the Commission has addressed the interest rate concerns expressed by small gas utilities that made this rulemaking necessary.

GCR Filings and Reconciliation Statements for Group I Gas Utilities

The Commission's rulemaking implements a universal filing schedule for all small gas utilities. This constitutes a change for Group I gas utilities (those utilities with annual operating revenues between \$2.5 million and \$40 million), which are currently required to make Gas Cost Rate (GCR) filings and reconciliation statement filings earlier in the year than their Group II gas utility counterparts. In its comments, Valley agrees that it is more advantageous for small gas utilities to file initial GCR filings in September, and final filings in October, to more accurately project winter gas costs. Valley also recognizes that the revised regulations will require reconciliation statements, pursuant to 52 Pa. Code § 53.66(c), to be filed by October 1 rather than July 31 each year. Valley seeks guidance from the Commission regarding the intended procedure for these filings during the transition year.

Currently, Group I gas utilities submit an annual GCR filing effective September 1 that includes a reconciliation statement for the 12 months ended June 30 of the same year.

⁶ See Commission Docket No. L-2014-2421001, (Order entered October 2, 2014).

In order to transition to a filing effective November 1, Group I utilities should submit a **one-time** reconciliation statement for the 14 months ended August 31, 2016, by October 1, 2016. Any additional questions regarding the transition should be made directly to the Commission's Bureau of Audits.

Interim GCR Filings

In the Proposed Rulemaking Order, the Commission proposed amending 52 Pa. Code § 53.66(g) to permit interim tariff filings effective on one day's notice at any time realized gas costs would result in a rate change greater than two percent. On further review, the Commission has determined that, unless otherwise provided for in its tariff,⁷ a small gas utility's interim GCR filing should become effective on **ten days' notice**. Providing for ten days' notice allows our Bureau of Audits adequate time to review the interim filing before it becomes effective. This change still enables small gas utilities to support their least-cost purchasing strategies and to quickly address fluctuations in over/under collections. This change is reflected in Annex A of this Order.

A final point of contention arises in the comments when the OCA recommends that the Commission limit the number of interim GCR filings to two updates per annual GCR period. The OCA reasons that too much flexibility might create customer confusion because rates could change multiple times in short periods and might make budgeting particularly difficult for customers.

In its reply comments, Valley counters that the OCA's proposal may achieve the result it attempts to avoid: greater fluctuation in over and under collections and larger

⁷ See Commission Docket No. R-2011-2229836, (Order entered April 28, 2011) (The Commission approved North East Heat & Light Company's Supplement No. 128 to Tariff Gas – Pa. P.U.C. No. 12 that, inter alia, reduced the notice period for interim GCR filings from thirty days to one.)

swings in gas rates to customers. Valley argues that allowing small gas utilities to submit interim rate changes regularly will reduce the variance between actual costs and billed GCR rates.

After weighing the merits of these comments, the Commission has decided not to limit the number of interim GCR filings to two per annual GCR period. Our amendment to allow interim tariff filings to become effective on ten days' notice should alleviate some of the OCA's concerns because rates will not be able to change as frequently in short periods of time. Small gas utilities will be allowed to file interim updates to be effective on ten days' notice, as needed. While the OCA's argument regarding potential customer confusion is valid, this limitation would undermine the goals of the Commission's rulemaking. As the Commission stated previously in our Proposed Rulemaking Order, our intent is provide small gas utilities with a means to better manage their operations by remaining aware of their limited capabilities and resources. Minimizing variances between actual gas costs and billed GCR rates is of paramount importance to this rulemaking and is in the public's interest. Limiting the number of annual interim filings is contrary to the Commission's purpose.

Finally, the Commission reiterates that interim GCR filings are not mandatory pursuant to this rulemaking; this policy is meant to encourage and facilitate regular monitoring of GCR activity as a good business practice.

Conclusion

This Order sets forth final-form regulations concerning the recovery of fuel costs by small gas utilities that, *inter alia*: (1) allow small gas utilities to collect interest from ratepayers on net under collections so as to be consistent with the rules applicable to their large gas utility counterparts; (2) amend the interest rate currently used with small gas utilities' GCR to the prime rate for commercial borrowing; (3) eliminate the requirement that 90% of small gas utilities' annualized gas costs be rolled into base rates so that the GCR in the line charge of customers' bills reflects 100% of their gas costs; and (4) allow interim GCR filings to become effective on ten days' notice. Consistent with our authority and obligations under Chapter 13 of the Public Utility Code, 66 Pa. C.S. § 1301 *et seq.*, and particularly section 1307, the Commission is establishing rules and regulations that will benefit both small gas utilities and their retail customers. The purposes of the regulations are to simplify and streamline the information and procedures small gas utilities use when submitting GCR filings with the Commission.

Accordingly, under sections 501 and 1501 of the Public Utility Code (66 Pa. C.S. §§ 501 and 1501); sections 201 and 202 of the act of July 31, 1968 (P. L. 769 No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated thereunder, at 4 Pa. Code §§ 7.231-7.235, we find that the regulations revising the recovery of fuel costs by small gas utilities as set forth in Annex A should be approved; **THEREFORE,**

IT IS ORDERED:

1. That the Secretary shall serve a copy of this Order and Annex A on the Bureau of Audits, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and all jurisdictional Natural Gas Distribution Companies.

2. That the Secretary shall certify this Order and Annex A and deposit them with the Legislative Bureau for publication in the *Pennsylvania Bulletin*.

3. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for approval as to legality.

4. That the Secretary shall submit this Order and Annex A to the Governor's Budget Office for review of fiscal impact.

5. That the Secretary shall submit this Order and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

6. That the final regulations become effective upon publication in the *Pennsylvania Bulletin*.

7. That a copy of this Order and Annex A shall be posted on the Commission's website at the Small Gas Task Force's web page.

8. That the contact person for legal matters for this Final Rulemaking is Colin W. Scott, Assistant Counsel, Law Bureau (717) 783-5949. The contact persons for technical matters for this proposed rulemaking are Richard Layton, Bureau of Technical Utility Services (717) 214-9117, or Barbara Sidor, Bureau of Audits (412) 423-9301. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau (717) 772-4597.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with the first name being particularly prominent.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: May 7, 2015

ORDER ENTERED: May 22, 2015

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

RECOVERY OF FUEL COSTS BY GAS UTILITIES

§ 53.61. Purpose.

* * * * *

(b) This section and §§ 53.62—53.68 classify gas utilities into [**three**] two categories and set forth the filing requirements and procedures to be followed in reviewing requests for recovery of purchased gas costs in proceedings under 66 Pa.C.S. § 1307 and § 1308 (relating to voluntary changes in rates). The inclusion of this section and §§ 53.62—53.68 has been necessitated by passage of the act of May 31, 1984 (P. L. 370, No. 74), 66 Pa.C.S. §§ 514, 1307, 1317, 1318 and 2107. These sections provide for a transition from existing procedures to the new procedures.

* * * * *

§ 53.63. Categories of gas utilities.

The following categories of jurisdictional gas utilities shall be applicable for the purposes of this section, §§ 53.61, 53.62 and 53.64—53.68 (relating to recovery of fuel costs by gas utilities) but shall not modify the categories of gas utilities established for other purposes, such as to prescribe proper accounting methods:

- (1) *Section 1307(f) gas utility or large gas utility.* A natural gas distributor with gross intrastate annual operating revenues in excess of \$40 million, in the preceding calendar year, shall be categorized as a Section 1307(f) gas utility.
- (2) [**Group I Gas Utility**] *Small gas utility.* A natural gas utility with gross intrastate annual operating revenues of [**between \$2.5 million and \$40 million, inclusive**] \$40 million or less, in the preceding calendar year, shall be categorized as a [**Group I Gas Utility**] small gas utility.
- (3) [**Group II Gas Utility**]. A natural gas utility with gross intrastate annual operating revenues of less than \$2.5 million in the preceding calendar year, shall be categorized as a **Group II Gas Utility**.

(4)] *Periodic orders.* The Commission shall periodically enter an order designating the category of each gas utility for the purposes of §§ 53.61—53.68.

§ 53.64. Filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million.

* * * * *

(i) Utilities shall comply with the following:

* * * * *

(5) A Section 1307(f) utility which files tariffs reflecting increases and decreases in gas costs in accordance with 66 Pa.C.S. § 1307(f) shall make quarterly filings in accordance with the following provisions:

* * * * *

(iii) If the recalculated rate does not differ by more than 2% from the currently effective rate, the utility shall file a letter with the Commission to that effect, with copies to the Office of Consumer Advocate, the **[Office of Trial Staff] Bureau of Investigation and Enforcement** and the Office of Small Business Advocate. If the recalculated rate differs from the currently effective rate by more than 2%, the utility shall file a tariff incorporating the recalculated rate in accordance with this section. If the recalculated rate results in an increase that is reasonably expected to have an immaterial effect on the utility's annual gas costs, the utility shall file a letter and supporting data to that effect in lieu of a tariff rate change. Notwithstanding the letter and supporting data, the Commission may nevertheless direct the utility to file a tariff rate change. For the final 3-month period (being the 3-month period ending 1 month before the effective date of the utility's next annual Section 1307(f) tariff filing), the utility shall recalculate the rate as described in this paragraph and adjust the rate as part of its tariff filing in compliance with the Commission's final order resolving the utility's next annual Section 1307(f) proceeding.

* * * * *

(j) Utilities under 66 Pa.C.S. § 1307(f) shall also file quarterly reports with the Commission, with a copy to the Office of Consumer Advocate, [Office of Trial Staff and] the Bureau of Investigation and Enforcement and the Office of Small Business Advocate concerning monthly gas costs incurred by the utility. The quarterly reports shall include by month change in supply source, supplier refunds received, change in supplier rates and comparison between actual costs and projected gas costs.

§ 53.66. Filing requirements for **[Group I]** small gas utilities.

(a) A **[Group I Gas Utility]** small gas utility seeking recovery of purchased gas costs under 66 Pa.C.S. § 1307(a) or (b) (relating to sliding scale of rates; adjustments) shall comply with the following procedures:

(1) **[Tariffs filed by Group I]** Gas Cost Rate (GCR) tariffs filed by small gas utilities for the purpose of recovery of gas costs under 66 Pa.C.S. § 1307 shall **[comply with the Gas Cost Rate (GCR) tariff requirements established by Commission orders entered on June 7, 1978 (52 Pa.P.U.C. 217 (1978)), and March 16, 1984 at P.U.C. Docket No. M-78050055, as amended by §§ 53.61—53.65, this section and §§ 53.67 and 53.68.]** include the following schedules:

- (i) Schedule 1: Calculation of the GCR.
- (ii) Schedule 2: Projected Supply and Sales Volumes.
- (iii) Schedule 3: Projected Supplier Rates.
- (iv) Schedule 4: Calculated Projected Gas Cost.
- (v) Schedule 5: Summary of E-Factor.
- (vi) Schedule 6: 1307(e) Statement of Over/Under Collections.
- (vii) Schedule 7: Actual Supply Volumes.
- (viii) Schedule 8: Actual Supply Rates.
- (ix) Schedule 9: Actual Supply Costs.
- (x) Schedule 10: Reconciliation of E-Factor.
- (xi) Schedule 11: Effect of Rate Changes on Residential Customer.

(2) A **[Group I Gas Utility]** small gas utility seeking recovery of its gas costs under 66 Pa.C.S. § 1307(a) or (b) shall annually submit a preliminary and a final GCR filing to the Commission to be effective **[September]** November 1, with notice to the public at the time of its initial filing as required by § 53.68 (relating to notice requirements). The preliminary filing is to be made by **[July 3]** September 2, and shall contain as much actual data as is then available. The final filing shall be made on **[August]** October 2 and shall contain actual data and any updates or

corrections to the data contained in the initial filing. Both the preliminary and the final filings shall be based on forecasted costs for the subsequent 12-month period ending August 31. The GCR computation is to follow a formula designated by the Commission. Upon Commission approval, a tariff shall be filed reflecting rates as approved.

* * * * *

(b) In addition to the statements and supporting data filed as required by 66 Pa.C.S. § 1307(e), **[Group I]** small gas utilities shall file the information and data as may be required by the Bureau of Audits or other bureau as the Commission may direct. Both the preliminary and the final filing shall be served upon the Office of Consumer Advocate, the **[Office of Trial Staff]** Bureau of Investigation and Enforcement and the Office of Small Business Advocate and shall be provided to intervenors, upon request. This evidence will be considered by the Commission in formulating its audit review under 66 Pa.C.S. § 1307(d) or in other proceedings as described in subsection (c) and may be supplemented by submissions from interested persons. The audit under 66 Pa.C.S. § 1307(d) and the review of procurement policies will not be the subject of the Commission's statutorily required reconciliation hearings under 66 Pa.C.S. § 1307(e), which are governed by strict time limits.

(c) **[Group I]** Small gas utilities shall file a reconciliation statement under 66 Pa.C.S. § 1307(e) for the 12-month period running from **[July]** September 1 through **[June 30]** August 31 by **[July 31]** October 1. Questions on the underlying propriety of a utility's procurement policies, and the like, can be raised in a separately docketed complaint proceeding filed by a party, by Commission investigation, or in a proceeding arising from audit findings under 66 Pa.C.S. § 1307(d).

(d) Overcollections are subject to refund with interest **[as calculated in the manner specified at 66 Pa.C.S. § 1308(d) (relating to voluntary changes in rates). Customers are not liable for interest on net undercollections caused by the setting of rates under 66 Pa.C.S. § 1307] applied at the PRIME RATE FOR COMMERCIAL BORROWING. ~~rate as calculated in the manner specified in 66 Pa.C.S. § 1307(f)(5).~~ Undercollections may be recovered from ratepayers. When undercollections are recovered, interest shall be applied at the PRIME RATE FOR COMMERCIAL BORROWING. ~~rate as calculated in the manner specified in 66 Pa.C.S. § 1307(f)(5).~~ Adjustments to the E-Factor for correction of prior reported over/under collections or as recommended by the Bureau of Audits may include interest. Unless directed otherwise by the Commission, the adjustment for interest is the difference between the amount of interest originally reported on the applicable over/under collection and the amount of interest applicable to the adjusted over/under collection.**

(e) Utilities recovering fuel costs under the GCR shall state the following information about fuel costs on customer's bills:

"This bill includes _____ per MCF which is our average cost of gas acquired for your use."

[(1)] The cost of gas shall be calculated exclusive of taxes and current base costs-nonfuel costs. [The gas cost rate encompasses fuel costs, regardless of whether shown on the bill as a base cost or separately shown as a purchased gas cost. For purposes of how costs are to be shown on the bill, at least 90% of the utility's experienced gas rates will be rolled into base rates. Both rolled-in and rolled-out gas costs are gas cost rate related and are subject to refund and reconciliation under 66 Pa.C.S. § 1307(e). Base rate roll-ins shall be equally applied to rate classifications on a cents per Mcf basis for GCR related costs.] The cost of gas must include the direct costs paid by the natural gas distribution company for the purchase and delivery of natural gas to its system to supply its customers. The GCR must include 100% of the gas costs and be shown as a separate line item on the customer bill. Gas costs included in the GCR are subject to refund and reconciliation under 66 Pa.C.S. § 1307(e). The E-Factor of Gas Adjustment Charge is a mechanism to refund or recoup over/under collected amounts under 66 Pa.C.S. § 1307(e). The E-Factor rate or Gas Adjustment Charge may be combined with the GCR or shown as a separate rate.

[(2) Notwithstanding the language in this subsection, parties to base rate proceedings are not constrained to allocate the cost of purchased gas among customer rate classifications on a commodity basis in the preparation of class cost of service studies.]

(f) [Group I] Small gas utilities shall pay interest on pipeline refunds from the time received until disbursed at a 6% annual interest rate. The refunds are to be refunded through recomputation of the E factor of the GCR formula.

(g) Small gas utilities should monitor GCR activity to avoid becoming materially over/under collected. In the event a small gas utility anticipates a material over/under collection that would result in a change in the current GCR greater than 2%, the small gas utility may submit an interim GCR tariff filing to become effective, UNLESS OTHERWISE PROVIDED FOR IN ITS TARIFF, on ~~4 day's~~ 10 DAYS' notice. The interim filing shall be subject to audit in accordance with 66 Pa.C.S. § 1307(d).

§ 53.67. [Filing requirements for Group II gas utilities] (Reserved).

[Section 53.66 (relating to filing requirements for Group I gas utilities) applies to Group II gas utilities, with the following exceptions:

(1) The effective date for Gas Cost Rate (GCR) filings for Group II gas utilities is November 1 and a preliminary filing containing actual data then available shall be made September 2. A final filing, based upon actual data together with revisions to data in the preliminary filing shall be made October 2. Notice to customers shall be made in accordance with § 53.68(b) (relating to notice requirements) at the time of the preliminary filing. Filings shall be based on projected costs for the subsequent 12 months ending October 31. A Group II Gas Utility seeking to file its GCR for a different 12-month period shall first obtain express Commission approval to do so.

(2) The 66 Pa.C.S. § 1307(e) (relating to sliding scale of rates; adjustments) reconciliation statement shall be filed by October 1, based on the 12-month period ending August 31.

(3) GCR tariffs filed under this section shall be filed in compliance with the Commission order entered on August 3, 1979, at P.U.C. Docket no. D-79S00192, as amended by §§ 53.61—53.66, this section and § 53.68.

(4) In addition to the statements and supporting data filed as required by 66 Pa.C.S. § 1307(e), Group II gas utilities shall file information and data as may be required by the Bureau of Audits or other bureau as the Commission may direct.]

§ 53.68. Notice requirements.

* * * * *

(b) [Each Group I and Group II gas utility] Small gas utilities filing a [Gas Cost Rate] GCR shall provide public notice within 5 days of the preliminary filing by publishing a notice in major newspapers within the utility's service area. The notice shall inform the public of new or revised tariff filings, where the filing can be inspected, and how comments or complaints should be filed.

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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION
400 NORTH STREET
HARRISBURG, PA 17120

GLADYS M. BROWN
CHAIRMAN

September 24, 2015

The Honorable John F. Mizner
Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown II
333 Market Street
Harrisburg, PA 17101

**Re: L-2013-2346923/57-297; Recovery of Fuel Costs by Gas Utilities
52 Pa. Code, Chapter 53**

Dear Chairman Mizner:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on October 17, 2013, submitted a copy of the Notice of Proposed Rulemaking to the Senate Committee on Consumer Protection and Professional Licensure, the House Consumer Affairs Committee and the Independent Regulatory Review Commission (IRRC). This notice was published at 43 *Pa.B.* 6503 on, November 2, 2013. The Commission also provided the Committees and IRRC with copies of all comments received in compliance with Section 745.5(b.1).

In preparing this final form rulemaking, the Commission has considered all comments received from the Committees, IRRC and the public.

Sincerely,

Gladys M. Brown
Chairman

Enclosures

pc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Peter J. Daley, II
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Scott
Regulatory Coordinator DelBiondo

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-2013-2346923/57-297

Subject: Final Rulemaking Re Recovery of Fuel Costs by Gas
Utilities

Pennsylvania Public Utility Commission

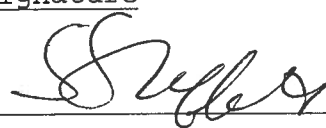
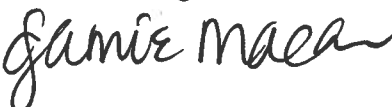

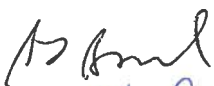
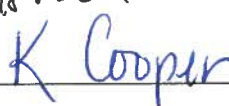
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IRRC

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
9/24/15		HOUSE COMMITTEE (Godshall)
9/24/15		Consumer Affairs
9-24-15		SENATE COMMITTEE (Tomlinson)
9/24/15		Consumer Protection and Professional Licensure
9/24/15		Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau