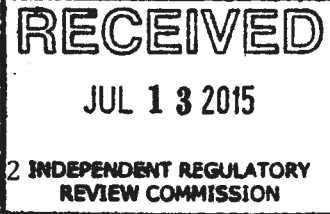


BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking for Gas Supplier)
Contract Disclosure Statements)
)

Docket No. L-2015-2465942



COMMENTS OF THE PENNSYLVANIA ENERGY MARKETERS COALITION

The Pennsylvania Energy Marketers Coalition (“PEMC”)¹ appreciates this opportunity to submit comments in response to the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) proposed rulemaking of April 26, 2015, seeking comment regarding Natural Gas Supplier Contract Disclosure Statements, as part of the investigation of Pennsylvania’s Retail Natural Gas Market (“RMI-Natural Gas”), docketed at L-2015-2465942.

The PEMC supports the Commission’s initiative to enhance customer disclosure information and notices to provide consumers with clear and accurate information regarding their Natural Gas Supplier (“NGS”) contracts. It is critical that customers are well informed about the terms and conditions of their NGS contract and their options prior to and after the expiration of their current contract for gas supply. Ultimately, this will alleviate customer confusion and improve customer trust and confidence in shopping in the competitive natural gas market.

The PEMC has identified a number of issues critical to ensuring the Commission’s proposals are implemented in the manner that best benefits the customer. More specifically, the PEMC will address the following topics in order:

- (1) Variable pricing and historical pricing;
- (2) Contract summaries;
- (3) Contract expiration notices; and
- (4) Miscellaneous disclosure concerns.

¹ For purposes of this filing, the PEMC consists of Agway Energy Services, LLC (“Agway”) and Pennsylvania Gas & Electric (“PAG&E”).

1. Variable pricing and historical pricing

Statement to the customer

The Commission proposes in its April 26 rulemaking that the variable pricing statement (if applicable to NGSs providing variable rate products) require NGSs to inform the customer of the starting price and ceiling price, or, if none, a statement that there is no ceiling on the variable price. This is similar to the requirement in the electric rules at 52 Pa. Code § 54.10. PUC at 9. The PEMC recommends suppliers be allowed some flexibility with the “no ceiling statement.” Informing the customer of the risks and benefits of a variable rate product is critical to ensure that the customer knows what to expect with respect to price changes on their natural gas bill. However, it is important to note, that in a truly competitive market place, NGSs should have the ability to sell an authorized product without discouraging customer interest and understanding.

With that said, the PEMC recommends that the Commission require such a statement (that variable rates do not have a ceiling) to be provided to the customer by the NGS, but that NGSs be allowed to include additional educational language (short and concise) that accurately informs the potential benefits of such a product. For example, in addition to notifying the customer that a variable product has no ceiling, such additional information could include the following: “For variable products, if you're following energy market prices and adjust the use of your energy accordingly, you can potentially save money.” Consumer education is very important in this regard. A consumer that understands the benefits, the risks, and the precautions necessary to be taken when signing up for a variable rate product will allow the consumer to shop with better understanding and confidence in the competitive natural gas marketplace in Pennsylvania.

Disclosure of price changes via a formulaic contract price

The Commission also sought comments on “whether a formulaic contract price that enables a customer to calculate its bill using the contract, publicly available rates or price indices should be considered in compliance with the provision of adequate disclosure of price for the first billing cycle.” PUC at 12. The PEMC cautions that a specific formula that a customer can use to calculate their bill total for generation service ahead of receiving the monthly bill, may be impossible. A range of external factors – some public, like commodity prices, some private, like hedging and risk mitigation activities – as well as internal corporate factors (including customer service and operations expenses, legal and regulatory compliance fees, etc.) contribute to the calculation of a variable rate price each month. The flexibility afforded to suppliers to offer variable rates to consumers that value such products would be undermined by effectively requiring suppliers to design rates that somehow take into account future market movements and regulatory requirements. This is also not a requirement placed on utilities, who have the advantage of recovering costs resulting from market changes and other factors *after the fact* through the reconciliation process. We urge the PUC to chart a middle course between allowing suppliers to only say “the variable price will vary” and requiring a calculable formula based on public indices.

Historic Price Disclosure

The PEMC has some concerns with the proposal to require suppliers to disclose to potential new customers the previous 24 months’ average monthly billed prices for that customer’s rate class and NGDC service territory. As is often heard in safe harbor statements in the financial industry, “past performance is no guarantee of future results.” While the inclination to give the consumer as much information as possible understandably emerges from a desire to ensure consumers are educated and protected, we respectfully urge the PUC to reconsider whether this information can actually be used effectively, given the reality that wholesale energy markets change over months

and years in ways that are not necessarily easy to predict (the historic drop in natural gas prices due to hydraulic fracturing is a stunning example of this type of shift). Understanding the PUC's intention to move forward on the disclosure of supplier historical pricing, however, we offer some suggestions on how to make this information as meaningful as possible. First, we must reiterate that utilities' pricing of default service rates need to be reflective of the true costs associated with the procurement and provision of the commodity, as well. These costs including salaries, payroll tax, benefits expense, rent, insurance, office supplies, accounting, IT, facilities costs, etc., need to be included in the default service rate rather than only recovered in the nonbypassable distribution rate. Allocating costs appropriately across default service and distribution rates is critical in order to provide a true "apples-to-apples" comparison between the NGS rates and the NGDC default service rates. However, this is not currently taking place and therefore skews the comparative results. The continued cross-subsidization of NGDC default service by distribution customers, and the resulting false sense of market efficiency will continue to keep consumers from seeing competitive offers that provide the value-added benefits the Commission is seeking. The PEMC understands that utilities are simply seeking to comply with the Commission regulations and current rate design procedures. However, it is critical to acknowledge that Commission regulations and cost recovery procedures need to be updated in order to accommodate a competitive climate. Current practices can result in inaccurate price signals and limited customer engagement.

In addition to addressing utility default service rates, we also endorse the Commission's proposal of the 24-month price history to be accompanied by a disclaimer noting: (1) that historical pricing is not indicative of present or future pricing; (2) that the utility Price-to-Compare and the supplier price term may differ, meaning straight comparisons of rates may be misleading; and (3) that the value of a supplier's fixed price offer, renewable energy offer, offers that are inclusive of home warranty products, etc., must be considered when comparing against the utility rate, which does not include such additional value.

For new NGSs entering the market, the PEMC recommends that the NGS disclose for its first billing cycle in-market that it has no historic prices to provide and that a consumer relying on historic pricing for shopping purposes should consider this carefully. Going forward, the NGS should disclose each subsequent billing cycle the historical price information, including the additional disclaimer, until 24 months' of data is available.

2. Contract Summaries

The PEMC agrees with the Commission's position that: (1) the contract summary should be a brief, single-page document in a graphic/box format, summarizing only the key contract terms necessary to assist a customer when comparison-shopping; and (2) that the inclusion of NGDC contact information is unnecessary and lacks relevance to the customer when shopping, as the inclusion of NGDC information leads some customers to wrongly believe that a utility endorsement or affiliation with the supplier exists. PUC at 15. The box format provides the customer with the high-level, concise information that he or she needs to know, recognizing that the customer still has the obligation to read the entire terms and conditions statement prior to agreeing to the contract. The PEMC also agrees with RESA that in the case of a month-to-month variable contract requiring suppliers to complete fields for both contract terms and renewal terms, as in the template for EGS contract summaries, may significantly confuse a customer.², docketed at I-2013-2381742. RESA at 4-5. The PEMC suggests that the contract term field in this case simply state that the customer will be renewed on a monthly basis. By requiring NGSs to then provide additional information in the renewal field conveying the same point will only confuse customers and therefore does not need to be included in the contract summary.

The PEMC also supports the Commission's proposal to informally review sample contract summaries for all NGSs before they are implemented, just as the Commission did with the electric

² Pennsylvania Public Utilities Commission. Docket: I-2103-2381742. RESA comments at 4-5. 2/2/15.

industry. This will ensure NGS information is accurate providing a one-time opportunity to allow the Commission to make any clarifications, correct any issues, etc. in order to ensure the contract summary is implemented and disclosed in the manner that best suits the customer.

3. Contract Expiration Notices or Changes in Terms

With regard to contract expiration notices, the PEMC recommends the 60-day and 30-day notice time frames from the electric rules in the gas industry be adopted, with a caveat. Regarding the proposed rule requiring 30-day advance notice of a price change to a customer who is on a fixed price contract that automatically renews to a month-to-month product, in which the price potentially change every month, we respectfully urge that the NGSS **not** be obligated to provide this 30-day advance notice. As other parties have noted in previous rounds of comments, there are significant technical challenges inherent in an NGS attempting to predict wholesale market prices 30 days in advance. Rather than attempting to solve the challenge of market complexity, we strongly urge the PUC to move forward on solving the comparably simpler technical challenge of accelerated switching for gas customers. This will ensure that customers have the ability to respond in near-real time to new preferences and opportunities without putting an unreasonable burden on suppliers – a burden that could have the unintended consequence of driving suppliers away from the marketplace all together.

As a second-order preference, the PEMC urges the PUC to adopt a more reasonable time-frame for the price notification notice, such as 10-15 days; with the option of e-mail or SMS notification this will ensure that the customer still receives notice in a timely manner and that the NGSS have a more reasonable timeframe within which to determine the variable price for the next billing cycle.

Language clarification on price terms

The PEMC agrees that the electric notice rules can be difficult to interpret, specifically as it relates to distinguishing the language between “fixed term” and “fixed price.” The Commission notes that “Fixed term” means that the length or duration of the contract is fixed for a specific period (*e.g.*, six months, 12 months). “Fixed price,” as used in the regulations, refers to a price that is fixed and does not change (as opposed to a “variable price”). The use of the word “term” can also be confusing for it refers to the “conditions” of a contract (as in “terms and conditions”) but it can also be used more specifically in relation to the length or duration of the contract (a “term” of six months for example). PUC at 19. As a result, to simplify the interpretation of these notice rules, the PEMC supports the Commission’s proposal to changing the word “term” to “duration” in the regulations. We believe the word “duration” is more accurate than using “length” as it “duration” more appropriately provides the period of time of the contract.

Method of providing the notice

Regarding the Commission’s proposal to carry over the electric rule requiring the second notice (the “options notice”) to the customer to be delivered by first-class mail in a prominently labeled envelope, we express the same concerns as RESA did in its earlier comments. First-class mail is an increasingly outmoded form of communication and that alternatives should be allowed, docketed at I-2013-2381742. RESA at 6. The PEMC recommends the customer be given the choice to select whether to receive the notice via first-class mail or receive it electronically.

We further support the proposal that only one notice should be required in instances where a supplier is not proposing any changes upon contract expiration.

Miscellaneous Disclosure Proposals and Concerns

Seamless moves

The PUC proposes deleting the second sentence at 52 Pa. Code § 62.75(c)(7), requiring the cancellation of an agreement when a customer moves from one location to another, in order to facilitate “seamless moves” in the gas industry. PUC at 23. The PEMC strongly supports the implementation of “seamless moves” as it will give the customer the ability to transfer their supply service contract from one address to another in the same NGDC service territory.

Removing NGDC information from NGS documents

The PAPUC proposes removing references requiring NGDC information to be included in NGS documents, from § 62.75(9), 62.75(11), and 62.75(13). PUC at 23-24. The PEMC agrees with the Commission that it is “now unnecessary to require a prominent display of NGDC information on NGS documents, as this may invite customer confusion and even risk, creating the false impression that the NGS is ‘affiliated with’ or ‘partnering with’ the NGDC.” PUC at 24. The issue of customers being able to distinguish the difference between a “utility” and a “supplier” as separate entities is an ongoing one. However, this proposal is a step in the right direction as it relates to providing greater understanding and transparency for the customers’ shopping experience.

Referring customers to the PAPUC gas shopping website

To alleviate potential customer confusion and to provide an information resource to customers, the Commission proposes revising §62.75(c)(12) by referring customers to the PAPUC’s natural gas shopping website, PaGasSwitch.com rather than directing customers to call the PAPUC by phone. PUC at 24. The PEMC strongly supports this proposal as the Commission’s natural gas shopping website, like PAPowerSwitch.com, should be considered as an all-in-one source for information. The customer will enjoy greater access and transparency by having the opportunity to

navigate through the website. The PEMC believes the Commission should consider making future improvements to PaGasSwitch.com in order to make the site be as useful as PAPowerSwitch.com, which has become an excellent resource for consumers interested in shopping for an EGS and for consumers seeking to educate themselves more about the electric shopping process in Pennsylvania.

CONCLUSION

The PEMC commends the Commission's initiative to improve customer disclosure information and notices in order to provide Pennsylvania consumers with clear and accurate information regarding their NGS contracts. It is critical that customers are well informed about the terms and conditions of their NGS contract and their options prior to and after the expiration of their current contract for gas supply. We recognize that much more work lies ahead and we therefore pledge to the Commission our continued support to help with these efforts.

Respectfully submitted,

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