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September 9, 2010

VIA FEDERAL EXPRESS

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

Re: Advanced Notice of Final Rulemaking Order: Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets, Docket L-2008-2069114

Dear Secretary Chiavetta:

Enclosed are an original and fifteen (15) copies of the *Comments of PECO Energy Company to the Advanced Notice of Final Rulemaking Order* in the above-captioned matter. An additional copy of this letter is also enclosed to be date-stamped and returned to PECO Energy.

Very truly yours,

Michael S. Swerling
Enclosures

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SEP 09 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

NATURAL GAS DISTRIBUTION COMPANIES AND	:	
PROMOTION OF COMPETITIVE RETAIL	:	**Docket No. L-2008-2069114**
MARKETS	:	

COMMENTS OF PECO ENERGY COMPANY TO THE COMMISSION'S ADVANCE NOTICE OF FINAL RULEMAKING ORDER

INTRODUCTION

On March 27, 2009, the Pennsylvania Public Commission's ("PUC" or "Commission") issued a proposed rulemaking order to adopt regulations governing relationships between NGDCs and NGSs, which sell, or seek to sell, natural gas to customers on NGDC distribution systems. The public comment period for the proposed rulemaking order ended on August 25, 2009. As part of the Commission's continuing efforts to create a reasonable and nondiscriminatory environment for retail natural gas competition, the PUC initiated an Advance Notice of Final Rulemaking Order ("ANOFR") to establish, among other things, rules regarding the formulation of a Price to Compare ("PTC"), the implementation of Purchase of Receivables ("POR") programs and mandatory capacity release for suppliers. The ANOFR issued on August 10, 2010 and the Commission is seeking further public comment due within thirty (30) days after the ANOFR's entry date. PECO Energy Company ("PECO" or "the Company") appreciates this opportunity to provide its comments to the ANOFR.

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COMMENTS

1. The PTC rules should include small business customers that use more than 300 Mcf annually:

PECO requests that the Commission clarify that the proposed PTC regulations are applicable, at a minimum, to residential and small business customers (defined as using less than 300 Mcf per year). Clarity is needed to ensure that these regulations will apply to commercial customers whose usage exceeds 300 Mcf per year but who are not considered large commercial and industrial customers. Applying the PTC to this class of customer will allow NGDCs to calculate and apply the PTC in a uniform manner and avoid the costs and confusion associated with implementing different PTC calculations based on usage. Therefore, PECO requests that the Commission add a new §62.223(G), which states that the *PTC must, at a minimum, include residential and small business customers as defined in 52 Pa. Code § 62.75.*

2. The Commission should reconsider the components of the PTC:

PECO is concerned about the shifting of fixed costs that will increase rates for SOLR customers under the proposed PTC rules. The Commission is requiring utilities to include their Purchased Gas Costs ("PGC") in the PTC. PECO's PGC contains three main components: 1) the Commodity Charge ("CC"); 2) the Balancing Service Charge ("BSC"); and 3) the Gas Cost Adjustment Charge ("GCA"). PECO agrees with including the CC in the PTC, but disagrees with including the BSC and the GCA in the PTC. Including these elements in the PTC will inappropriately raise costs for NGDC customers.

The BSC is a cost associated with balancing system deliveries and is comprised of storage and peaking expenses.[1] The BCS is charged to all customers (shoppers and non-shoppers alike) and is a PECO-centric cost. The BSC recovers costs associated with balancing all deliveries on the PECO system regardless of whether the customer receives service from an NGDC or an NGS. Marketers do not have similar costs because PECO provides this service. Therefore, requiring PECO to place its BSC in the PTC will not result in an apples-to-apples comparison of the PTC between NGDC costs and NGS costs. Instead, it will result in a grossly overstated PTC. The BSC, which is approximately $0.40 per Mcf, will inflate the PTC and continue to increase rates for SOLR customers as more customers shop.

The GCA results from a past accumulation of over and under recoveries of the CC that will be charged or credited to customers over a twelve month period. Therefore, this charge or credit will follow a customer that switches to a supplier for a twelve month period (per PECO's Rate Mitigation Rider). The GCA can range from several cents per Mcf to upwards of a dollar per Mcf. When the GCA is included in the PTC, confusing and inappropriate price signals are sent to customers.

For example, a SOLR customer that experiences an over-collection will be inclined to switch to an NGS because the PTC will have inflated. However, the PTC is not providing the customer with signals related to the marketplace at that time because the PTC will be inflated by a backward looking reconciliation. PECO believes that this will lead to customer confusion. For

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[1] PECO must balance the daily and seasonal requirements of its customers that cannot be satisfied vie the assigned Pipeline FT Capacity. Under PECO's LVT program, PECO loans NGSs gas commodity to meet demand for NGS' customer pools that exceed the demand serviceable by the transportation capacity assigned to the NGS. NGS are required to return in the following summer the "borrowed gas" taken from PECO's storage to serve customers. The advance of gas from storage by PECO provides a substantial benefit to NGSs. NGSs do not have to buy gas to fill storage until <u>after</u> customers have paid for the gas. Therefore, they not only avoid the cash working capital necessary to obtain gas in advance of service, but also get the benefit of obtaining cash from the customer months in advance of the time it must be expended to return gas to PECO.

these reasons, PECO requests that the Commission reconsider including the BSC and the GCA in the PTC.

However, if the Commission ultimately decides to include the GCA in the PTC, PECO requests that the over and under recovery continue to be spread over a twelve month period to mitigate large reconciliation swings due to the highly seasonal nature of gas sales.

3. The Commission should allow flexibility for POR program development:

PECO supports the Commission's efforts at developing voluntary POR programs and requests that the Commission allow NGDCs flexibility in developing programs that work in their individual service territories on a case by case basis. PECO recently filed its own voluntary POR program. See *Petition of PECO Energy Company For Approval Of Its Natural Gas Supplier Purchase Of Receivables Program* (the "Petition") at docket P-2009-2143588.

This program proposed using a zero discount without recourse to those NGSs for receivables that PECO could collect because PECO believed a zero discount would create a straightforward "level playing field" for NGSs and default service supply in PECO's territory. Therefore, PECO requests that the Commission allow flexibility for alternatives to a POR discount, especially as POR programs are still developing and evolving in the Commonwealth.

4. The changes set forth in §62.225(a) contradict 66 Pa.C.S. § 2204(d)(1):

In the current ANOFR, the Commission specifically stated that it declined to revise or delete §62.225(a) (ANOFR at 31). However, a review of §62.225(a) clearly demonstrates that this section was revised and PECO has some concerns with the revisions.

First, the revisions significantly alter the statutory plain language set forth in 66 Pa.C.S. § 2204(d)(1). The statute does not refer to "new or renewed contracts" for firm storage or transportation capacity. Another part of the statute, section 2204(e), is specifically entitled "New and renewed capacity." If the legislature intended § 2204(d)(1) to state "new or renewed contracts", it would have specifically stated so, as it did in §2204(e). Therefore, taking the plain meaning of the statute, proposed section 62.225(a) should not state "new or renewed contracts."

Second, the Commission proposes to change the language in §2204(d)(1) which currently allows NGDCs to release capacity at their option and compel NGDCs to release their capacity to NGSs. Such a revision removes the specific option set forth in the statute that allows an NGDC to decide whether or not the release its capacity. This is a significant revision to the statute because it contradicts the plain statutory language. If the legislature intended a mandatory requirement that NGDCs release their capacity, it would have specifically stated such. Therefore, PECO requests that the Commission reconsider the revisions made to the statutory language set forth in 66 Pa.C.S. §2204(d)(1).

5. Mandatory Capacity contradicts FERC rules and may challenge system reliability:

Under FERC rules at 18 CFR §§157 and 284, significant portions and critical elements of storage contracts cannot be assigned to NGSs. Even if such storage could be assigned to NGSs, there would be unavoidable reductions in reliability of gas service on the PECO system, both for the purpose of satisfying the citygate balancing requirements of the system as well as its peak day requirement. The proposed regulations do not consider these FERC issues nor do they consider reductions in reliability of gas service on the PECO system. Therefore, PECO requests that the Commission reconsider its mandatory capacity requirement especially for significant portions and critical elements of storage contracts.

6. PECO will need more than 60 days to implement changes under these regulations:

The Commission directed NGDCs to file tariff revisions within 60 days of the final regulation. It is unclear whether utilities have the flexibility to file their revised tariffs with a future effective date for all changes contained therein to allow time for all necessary implementation work including system building, testing and training. PECO is also implementing a considerable amount of systems changes for a wide variety of other high priority matters, including many items to support retail electric choice. To reasonably accommodate all of the work needed, PECO requests that the Commission allow NGDCs a reasonably adequate amount of time (at least 12 months) to implement all of the changes.

CONCLUSION

PECO respectfully requests that its comments to the ANOFR be considered. All other comments not incorporated in the body of these comments are set forth in a redlined copy of Annex A attached as Exhibit A.

Respectfully submitted,

Dated: September 9, 2010

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Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE

Subchapter G. NATURAL GAS DISTRIBUTION COMPANIES AND COMPETITION

§ 62.221. Purpose.

To foster a competitive retail marketplace for natural gas service to CUSTOMERS ELIGIBLE FOR SOLR SERVICE, WHICH IS A CLASS OF CUSTOMER THAT CONSISTS LARGELY OF residential and small ~~commercial~~ BUSINESS customers, it is essential that THESE consumers be able to compare the price of gas purchased from their incumbent NGDCs with that offered for sale by NGSs. This subchapter sets forth a number of regulatory changes to ~~provide a more level playing field between NGDCs and NGSs and, therefore,~~ promote competition for natural gas supplies.

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§ 62.222. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Act--66 Pa.C.S. §§ 2201--2212 (relating to THE Natural Gas Choice and Competition Act).

GPC -- Gas procurement charge —AN ELEMENT OF THE PTC, EXPRESSED ON A PER MCF OR DTH BASIS, THAT REFLECTS THE NDGC'S NATURAL GAS PROCUREMENT COSTS excluding any system balancing charges and the RECONCILIATION FOR OVER AND UNDER COLLECTIONS. A ~~mechanism by which the effect of natural gas procurement costs removed from an NGDC's base rates are recovered~~.

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~~*GPRR--Gas procurement reduction rate*--An equal offsetting credit to the GPC MFC, billed to all residential and small commercial customers.~~

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MFC--MERCHANT FUNCTION CHARGE—AN ELEMENT OF THE PTC, EXPRESSED ON A PER MCF OR DTH BASIS, THAT REFLECTS THE COST OF UNCOLLECTIBLES ASSOCIATED WITH THE NGDC'S GAS COSTS.

NGDC--Natural gas distribution company--As defined in section 2202 of the act (relating to definitions).

~~*NGPA--Net gas procurement adjustment*--A tariff rider designed to create a rate neutral adjustment to currently existing base rates and the PGC rate to develop a reasonable PTC by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC~~.

NGS--Natural gas supplier--As defined in section 2202 of the act.

Natural gas supply service-- ~~The provision of natural gas to end users as defined in §62.72 (relating to definitions).~~ AS DEFINED IN SECTION 2202 OF THE ACT.

PGC--Purchase gas cost--Natural gas costs which are collected, with adjustments, by NGDCs from their customers under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments).

POR--Purchase of receivables--Program by which an NGDC purchases the accounts receivable of NGSs.

PTC--Price to compare—A line item that appears on a retail customer's monthly bill for ~~SOLR~~ NATURAL GAS SUPPLY service AND USED BY THE CUSTOMER TO MAKE A COMPARISON WITH THE NATURAL GAS SUPPLY RATE OFFERED BY AN NGS. ~~The PTC is equal to the sum of all unbundled natural gas costs and natural gas procurement costs related charges to a default service customer for that month of service.~~

SOLR--Supplier of last resort--A supplier approved by the Commission under section 2207(a) of the act (relating to obligation to serve) to provide natural gas supply services to customers who:

(i) Contracted for natural gas that was not delivered.

(ii) Did not select an alternative NGS.

(iii) Are not eligible to obtain competitive natural gas supply.

(iv) Return to the supplier of last resort after having obtained competitive natural gas supply.

Small business customer--As defined in § 62.72.

§ 62.223. PTC.

(A) THE PTC RATE SHALL BE EXPRESSED ON A PER MCF OR DTH BASIS AND CONSIST OF THE FOLLOWING ELEMENTS:

(1) THE GAS COST RATE DETERMINED IN THE NGDC'S SECTION 1307(F) PROCEEDING, EXCLUDING THE RECONCILIATION FOR OVER AND UNDER COLLECTIONS AND BALANCING SERVICE CHARGES.

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(2) THE GAS PROCUREMENT CHARGE.

(3) THE MERCHANT FUNCTION CHARGE.

~~(a)~~ (B) An NGDC shall ~~establish a GPC. The GPC shall be added to the cost of supply rate developed under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments) to create a comparable PTC. The GPC shall be adjusted and reconciled annually in conjunction with the § 1307(f) process to become effective with new PGC rates.~~ FILE A TARIFF CHANGE UNDER 66 PA. C.S. § 1308(A) TO IDENTIFY THE NATURAL GAS PROCUREMENT COSTS INCLUDED IN BASE RATES AND SHALL PROPOSE TARIFF REVISIONS DESIGNED TO REMOVE THOSE COSTS FROM BASE RATES AND TO RECOVER, ON A REVENUE NEUTRAL BASIS, THOSE ANNUAL COSTS UNDER 66 PA. C.S. §1307 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS).

NATURAL GAS PROCURMENT COSTS SHALL INCLUDE THE FOLLOWING ELEMENTS:

(1) NATURAL GAS SUPPLY MANAGEMENT COSTS, INCLUDING NATURAL GAS SUPPLY BIDDING, CONTRACTING, HEDGING, CREDIT, RISK MANAGEMENT COSTS, ANY SCHEDULING AND FORECASTING SERVICES PROVIDED EXCLUSIVELY FOR SOLR SERVICE BY THE NGDC, AND APPLICABLE ADMINISTRATIVE AND GENERAL EXPENSES RELATED TO THOSE ACTIVITIES.

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(2) ADMINISTRATIVE COSTS, INCLUDING EDUCATION, REGULATORY, LITIGATION, TARIFF FILINGS, WORKING CAPITAL, INFORMATION SYSTEM AND ASSOCIATED

ADMINISTRATIVE AND GENERAL EXPENSES RELATED EXCLUSIVELY TO SOLR SERVICE.

(3) APPLICABLE TAXES, EXCLUDING SALES TAX.

~~(b)~~ (C) An NGDC shall ~~remove all natural gas procurement costs from its base rates as part of its next filing under 66 Pa.C.S. § 1308(d) (relating to voluntary changes in rates). The expenses shall be recovered through a separate GPC surcharge. The NGDC shall include a proposed tariff rider to establish a GPC within the requirements of 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments).~~ FILE A MERCHANT FUNCTION CHARGE (MFC) RIDER. THE MFC MUST REMOVE THE COST OF UNCOLLECTIBLES APPLICABLE TO CURRENT GAS COST RATES FROM ITS DELIVERY RATES AND APPLY IT TO THE PTC ON A REVENUE NEUTRAL BASIS UNDER 66 PA. C.S. § 1307 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS).

(1) A WRITE-OFF FACTOR SHALL BE DETERMINED BY DIVIDING THE RETAIL UNCOLLECTIBLE EXPENSE BY RETAIL REVENUES. THE FACTOR APPLIED TO CURRENT APPLICABLE PGC RATES SHALL BE THE IMPLEMENTATION MFC AMOUNT THAT WILL BE REMOVED FROM DELIVERY RATES.

(2) AFTER IMPLEMENTATION, UNBUNDLED DELIVERY CHARGES MAY NOT BE ADJUSTED FOR THE WRITE-OFF FACTOR OUTSIDE OF A BASE RATE CASE.

(3) The MFC SHALL BE UPDATED QUARTERLY TO REFLECT NEW PGC RATES EFFECTIVE WITH EACH APPLICABLE 1307(F) FILING.

~~(c)~~ (D) ~~An NGDC, in its next purchased gas cost filing under 66 Pa.C.S. § 1307(f), shall submit a proposed tariff rider to establish a NGPA within the requirements of 66 Pa.C.S. § 1307~~. THE GPC AND MFC-TARIFF RIDER MUST IDENTIFY:

(1) HOW THE SURCHARGES WILL BE CALCULATED.

(2) WHICH COSTS WILL BE RECOVERED THROUGH THE SURCHARGE BY:

(I) CUSTOMER CLASS AND COST CATEGORY

(II) FEDERAL ENERGY REGULATORY COMMISSION ACCOUNT NUMBER, INCLUDING THE SPECIFIC SUB-ACCOUNTS USED TO RECOVER ELIGIBLE PROCUREMENT COSTS.

~~(d)~~ (E) ~~The NGPA shall be designed to create a rate neutral adjustment to currently existing base rates and the PGC rate to develop a reasonable PTC by shifting SOLR costs related to procurement from the base rate cost of distribution to the PTC.~~ THE GPC AND MFC MAY NOT BE SUBJECT TO RECONCILIATION

~~(e)~~(F) ~~The proposed NGPA tariff rider shall establish a GPC on a per MCF/DTH basis to be applied to customers' bills receiving SOLR service for the recovery of gas procurement costs currently recovered through base rates, and a GPRR on a per MCF/DTH basis, as an equal offsetting credit to the GPC, billed to all residential and small commercial customers.~~ THE GPC AND MFC SHALL BE SUBJECT TO AUDIT.

~~(f) The GPC and NGPA riders must identify:~~

~~(1) How the surcharge will be calculated.~~

~~(2) Which costs will be recovered through the surcharge by:~~

~~(i) Customer class and cost category~~

~~(ii) Federal Energy Regulatory Commission account number including the specific sub-accounts used to recover eligible procurement costs.~~

~~(g) The NGPA rider shall remain in effect until establishment of new base rates and a PGC rider following a base rate proceeding under 66 Pa.C.S. § 1308(d).~~

~~(h) The GPC shall be adjusted monthly.~~

~~(i) The GPC shall be subject to audit.~~

~~(j) An NGDC shall adjust its PGC monthly.~~

(G) The PTC must AT A MINIMUM include residential and small business customers as defined in 52 Pa. Code §62.75.

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§ 62.224. POR programs.

(a) *Program design.*

(1) An NGDC may purchase accounts receivable from licensed NGSs which operate on the NGDC system and who wish to sell ~~the~~ THEIR receivables.

(2) An NGDC ~~may~~ SHALL purchase receivables ONLY associated with natural gas supply service charges and may not purchase other receivables that may be ~~incurred~~ HELD by NGSs. The NGS shall certify that charges do not include receivables for any other products or services. IN ORDER TO QUALIFY FOR PARTICIPATION IN A POR PROGRAM, AN NGS SHALL USE CONSOLIDATED BILLING FROM THE NGDC, EXCEPT IN ONE OR BOTH OF THE FOLLOWING INSTANCES:

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(I) AN NGS PARTICIPATING IN AN NGDC'S POR PROGRAM MAY SEPARATELY BILL FOR BASIC SUPPLY SERVICE THAT THE NGDC'S CONSOLIDATED BILLING SYSTEM CANNOT ACCOMMODATE;

(II) AN NGS PARTICIPATING IN AN NGDC'S POR PROGRAM MAY SEPARATELY BILL A CUSTOMER IF THE NGS IS PROVIDING A SERVICE OR PRODUCT THAT DOES NOT MEET THE DEFINITION OF BASIC NATURAL GAS SUPPLY SERVICE AND CERTIFIES THAT THE SERVICE OR PRODUCT DOES NOT MEET THE DEFINITION OF BASIC NATURAL GAS SUPPLY SERVICE.

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(3) An ~~NGDC~~ NGDC'S ~~may voluntarily purchase NGS accounts receivable at a discount~~ POR PROGRAM MAY USE A DISCOUNT RATE DESIGNED to ~~recover~~ COMPENSATE THE NGDC FOR REASONABLY PROJECTED RISK OF UNCOLLECTIBLES ASSOCIATED WITH THE NGS' CUSTOMER ACCOUNTS AND THE incremental costs associated with ~~POR program~~ THE development, implementation and administration OF THE POR PROGRAM.

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~~(4) When an NGDC chooses to purchase accounts receivable at a discount, it shall negotiate the discount rate with the NGS on its distribution system.~~

~~(i) It shall give fair notice to the NGSs of the time and place of negotiation.~~

~~(ii) It shall apply the same discount rate to all accounts receivable it purchases on its system.~~

~~(iii) It shall renegotiate the discount rate not less than once every 5 years.~~

(4) AN NGDC MAY APPLY DIFFERING DISCOUNT RATES TO PURCHASE RECEIVABLES BASED ON DIFFERENT CUSTOMER CLASSES.

(5) POR programs must AT A MINIMUM include receivables on residential and small business customer accounts.

(6) *When an NGDC purchases accounts receivable from an NGS through a* Commission-approved POR program and the accounts receivable are comprised only of charges for basic natural gas supply, the NGDC may terminate service to customers for failure to pay NGS supply charges.

(7) To ensure that an NGDC's affiliated suppliers do not receive an advantage over nonaffiliated suppliers, a POR program shall be designed and implemented in accordance with §§ 62.141 and 62.142 (relating to standards of conduct).

(8) An NGDC POR program shall be included in a supplier coordination tariff, as defined by Commission rules, regulations and orders, and approved by the Commission prior to implementation.

(9) ~~An NGDC may include the difference between its cost of the purchased receivables and the amounts it has actually collected as part of its uncollectible expense in its next base rate case when it agrees to share with its customers the losses or gains associated with POR program collections.~~ TO ENSURE THAT THE POR DISCOUNT RATE ACCURATELY REFLECTS ITS PROGRAM COSTS, THE NDGC SHALL TRACK ITS POR PROGRAM COSTS AND COLLECTIONS EXPERIENCE. IF THE DISCOUNT RATE NO LONGER REASONABLY COMPENSATES THE NGDC FOR ITS POR PROGRAM COSTS AND COLLECTIONS EXPERIENCE, THE NDGC SHALL FILE AN UPDATE TO THE POR DISCOUNT RATE WITH THE COMMISSION.

~~(10) The NGDC shall track its POR program purchases and collections~~

(b) *Customer care.*

(1) An NGS shall follow Commission regulations relating to customer service including Chapter 56 (relating to standards and billing standards), §§ 62.71--62.80 (relating to customer information disclosure) and § 62.114 (relating to standards of conduct and disclosure for licensees).

(2) An NGS shall respond to customer complaints regarding rate disputes in not more than 30 days consistent with §§ 56.141, 56.151 and 62.79 (relating to dispute procedures; general rule; and complaint handling process).

(3) An NGDC shall follow 66 Pa.C.S. Chapter 14 (relating to responsible utility customer protection) and Chapter 56 when terminating service to a customer for failure to pay THE APPLICABLE NGS natural gas supply charges purchased

under the POR program. An NGDC MAY TERMINATE SERVICE TO AN NGS CUSTOMER ONLY FOR THE CUSTOMER'S FAILURE TO PAY THE PORTION OF THE ACCOUNTS RECEIVABLE PURCHASED UNDER THE POR PROGRAM THAT IS COMPRISED OF CHARGES FOR BASIC NATURAL GAS SUPPLY SERVICE.

(4) Reconnection of service to NGS customers following termination shall be made in accordance with 66 Pa.C.S. Chapter 14 and applicable regulations in Chapter 56.

(5) An NGDC shall agree to inform all customers that service may be terminated for failure to pay NGS supply charges by a separate bill insert that specifically describes the policy for termination of service.

(6) An enrollment letter issued by an NGDC at the time of selection of the NGS must inform customers that service may be terminated for failure to pay BASIC NGS supply charges.

~~(c) *Satisfaction of the security requirements for licensing*. An NGS's accounts receivable may be used to satisfy in full or in part the security required for licensing as a natural gas supplier.~~

§ 62.225. Release, assignment or transfer of capacity.

(a) An NGDC holding contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or a city natural gas distribution operation, ~~may~~ MAY AT ITS OPTION release, assign or transfer the capacity or Commonwealth supply, in whole or in part, associated with those contracts to licensed NGSs or large commercial or industrial customers on its system, and in accordance with 66 PA. C.S. § 2204 (E).

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(1) A release, assignment or transfer shall be made on a nondiscriminatory basis.

(2) A release, assignment or transfer shall be at the applicable contract rate for capacity or Pennsylvania supply and be subject to applicable contractual arrangements and tariffs.

(3) The amount released, assigned or transferred shall be sufficient to serve the level of the customers' requirements for which the NGDC has procured the capacity determined in accordance with the NGDC's tariff or procedures approved in its restructuring proceedings.

~~§ 62.226. NGDC costs of competition related activities.~~

~~(a) As part of its next annual filing under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments), an NGDC may include a proposed tariff rider to establish a nonbypassable reconcilable surcharge filed within the requirements of 66 Pa.C.S. § 1307 designed to recover the reasonable and prudently incurred costs of implementing and promoting natural gas competition within this Commonwealth.~~

~~(b) The surcharge shall be calculated annually and adjusted to account for past over- or under-collections in conjunction with the § 1307(f) process to become effective with new PGC rates.~~

~~(c) The surcharge shall be recovered on a per unit basis on each unit of~~ ~~*commodity which is sold or transported over its distribution system*~~ ~~without regard to the customer class of the end user.~~

~~(d) Before instituting the surcharge, an NGDC shall remove the amounts attributable to promoting retail competition from its base rates. This may be done through a 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) rate case filed at least 5 years after first seeking recovery through a 66 Pa.C.S. § 1307 nonbypassable mechanism.~~

~~(e) Until an NGDC which seeks a nonbypassable recovery of its costs of promoting retail competition files a base rate case under 66 Pa.C.S. § 1308(d), the NGDC shall eliminate the effect of recovery of these costs in base rates though the filing of a credit to its base rates equal to the amount in base rates. This may be established through the filing of a fully allocated cost of service study and a proposed tariff rider in the NGDC's proceeding under 66 Pa.C.S. § 1307(f) to establish a revenue neutral adjustment clause to credit base rates for the costs associated with promoting retail competition that are currently reflected in base rates and to recover fully those costs through a nonbypassable reconcilable surcharge. The credit and surcharge shall be adjusted at least annually through the 66 Pa.C.S. § 1307(f) process.~~

~~(f) The revenue neutral adjustment clause rider shall remain in effect until establishment of new base rates under 66 Pa.C.S. § 1308(d) which include a fully allocated cost of service study to remove these costs from base rates.~~

~~(g) The surcharge shall be subject to audit.~~

~~§ 62.227. Regulatory assessments.~~

~~(a) As part of its next annual filing under 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments), an NGDC shall include a proposed tariff rider to establish a nonbypassable reconcilable surcharge filed within the requirements of 66 Pa.C.S. § 1307 designed to recover the NGDC regulatory assessment payments made under to 66 Pa.C.S. § 510 (relating to assessment for regulatory expenses upon public utilities).~~

~~(b) The surcharge shall be calculated annually and include costs associated with regulatory assessments for the Commission in 66 Pa.C.S. § 510, the Office of Consumer Advocate under section 904-A.1 of The Administrative Code of 1929 (71 P. S. § 309-4.1) regarding assessment upon public utilities, disposition, appropriation and disbursement of the assessments, and the Office of Small Business Advocate under section 6 of the Small Business Advocate Act (73 P. S. § 399.46) regarding assessment upon public utilities; disposition, appropriation and disbursement of the assessments. The NGDC shall include the following in its annual filing:~~

~~(1) Copies of its most recent annual bills for the Commission for each assessment.~~

~~(2) Copies of adjusted bills or refunds received since its prior filing.~~

~~(3) Proof of payment of each bill.~~

~~(c) The surcharge shall be recovered on a per unit basis on each unit of commodity which is sold or transported over its distribution system without regard to the customer class of the end user.~~

~~(d) The surcharge shall be adjusted annually to account for past over- or under-collections in conjunction with the § 1307(f) process to become effective with new PGC rates.~~

~~(e) Before instituting the surcharge, an NGDC shall remove the amounts attributable to the regulatory assessments from its base rates. This may be done through a 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) rate case filed at least 5 years after first seeking recovery through a 66 Pa.C.S. § 1307 nonbypassable mechanism.~~

~~(f) Until an NGDC which seeks a nonbypassable recovery of its regulatory assessments files a base rate case under 66 Pa.C.S. § 1308(d), the NGDC shall eliminate the effect of recovery of assessment payments in base rates though the filing of a credit to its base rates equal to the amount of assessment costs in base rates. This may be established through a fully allocated cost of service study and a~~

~~proposed tariff rider in the NGDC's next proceeding under 66 Pa.C.S. § 1307(f) to establish a revenue neutral adjustment clause to credit base rates for the assessment costs reflected in rates and to recover fully those assessment costs through a nonbypassable reconcilable surcharge. The credit and surcharge shall be adjusted at least annually through the 66 Pa.C.S. § 1307(f) process.~~

~~(g) The revenue neutral adjustment clause rider shall remain in effect until establishment of new base rates under 66 Pa.C.S. § 1308(d) which include a fully allocated cost of service study to remove these costs from base rates.~~

~~(h) The surcharge shall be subject to audit.~~

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