



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Elizabeth P. Trinkle
Direct Dial: 717.237.5378
Direct Fax: 717.260.1759
etrinkle@mwn.com

December 2, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

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

Dear Secretary Chiavetta:

Enclosed please find the Comments of Valley Energy, Inc. regarding the above-referenced proceeding.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to be 'Elizabeth P. Trinkle', written over a horizontal line.

Elizabeth P. Trinkle

Counsel to Valley Energy, Inc.

EPT/emp
Enclosure

c: Certificate of Service

www.mwn.com

HARRISBURG, PA • LANCASTER, PA • SCRANTON, PA • STATE COLLEGE, PA • COLUMBUS, OH • WASHINGTON, DC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

Docket No. L-2013-2346923

COMMENTS OF VALLEY ENERGY, INC.

Pamela C. Polacek (Pa. I.D. No. 78276)
Elizabeth P. Trinkle (Pa. I.D. No. 313763)
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to Valley Energy, Inc.

Dated: December 2, 2013

I. INTRODUCTION

On May 9, 2013, the Pennsylvania Public Utility Commission ("PUC" or "Commission") entered a Proposed Rulemaking Order to amend Chapter 53 of its existing regulations regarding "Recovery of Fuel Costs by Gas Utilities."¹ The purpose of this proceeding, according to the Commission, is to streamline procedures for small gas utilities when submitting gas cost rate ("GCR") filings. To facilitate more efficient GCR filings, the Commission proposes to (1) eliminate the distinction between "Group I Gas Utility" and "Group II Gas Utility" and refer to these utilities collectively as "Small Gas Utilities"; (2) simplify the schedules included in Small Gas Utilities' GCR filings; (3) unify the time schedules for Small Gas Utilities to provide for more accurate gas cost projections; (4) allow Small Gas Utilities to collect interest from ratepayers on net undercollections consistent with the rules applicable to gas utilities with revenues in excess of \$40 million (also known as 1307(f) gas utilities), at the interest rate specified at 66 Pa. C.S. § 1307(f)(5); (5) eliminate the requirement that at least 90% of a Small Gas Utility's annualized gas costs be rolled in base rates; and (6) adopt a GCR interim tariff filing procedure that would allow the filing to become effective on one day's notice.²

Valley Energy, Inc. ("Valley" or "Company") is one of the smaller jurisdictional Natural Gas Distribution Companies ("NGDCs") in Pennsylvania, serving eleven communities in Bradford County, Pennsylvania and Tioga County, New York. Valley provides service to approximately 6,466 customers in Sayre, Pennsylvania, and the surrounding area. Of Valley's 6,466 total customers, approximately 5,623 of these customers are residential customers, while 843 are commercial or industrial. Valley also serves approximately 1,798 customers in New

¹ *Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the Recovery of Fuel Costs by Gas Utilities*, Proposed Rulemaking Order, Docket No. L-2013-2346923 (May 9, 2013) ("Proposed Rulemaking Order").

² *See id.* at 19.

York. Valley's supply of natural gas for all of its customers is delivered through a single city gate in Pennsylvania, and a local production well located in the Pennsylvania portion of its territory. Valley is classified as a Group I NGDC under the current regulations.

As a small NGDC, Valley applauds the Commission's efforts to streamline GCR filing procedures and urges the Commission to adopt revisions that provide optimal benefit to Small Gas Utilities while appropriately distinguishing these utilities from their 1307(f) counterparts. Valley encourages the Commission to consider similar initiatives in other areas, where appropriate, such as the requirements for implementation of retail supply competition in the territories of the smaller NGDCs. Valley is the only small gas utility that must comply with the Natural Gas Choice and Competition Act. Valley recognizes that issues related to the regulatory requirements for retail competition are being addressed by the Commission in the pending *Investigation of Pennsylvania's Retail Natural Gas Supply Market* at Docket No. I-2013-2381742; however, the underlying reason that support the streamlining that is being evaluated in this Proposed Rulemaking also apply to the Gas Competition Investigation (i.e., the more limited resources of the smaller NGDCs in comparison to the Large Gas Utilities). Valley urges the Commission to be consistent in its consideration of both sets of regulatory requirements for small NGDCs.

II. COMMENTS

Valley commends the Commission for recognizing and addressing the burdens imposed on Small Gas Utilities by the currently effective regulations. As the Commission correctly notes in the Proposed Rulemaking Order, Small Gas Utilities face unique operational challenges, including limited purchasing options and capabilities.³ In light of Valley's and similarly situated Small Gas Utilities' small customer base and limited staff, the Commissions' current GCR

³ See *id.* at 12.

regulations impose significant burdens that often result in unjustified inequities between Small Gas Utilities and 1307(f) utilities.⁴ Most notably, while the 1307(f) utilities are credited with interest on undercollections, the Small Gas Utilities are not. The Proposed Rulemaking Order corrects this discriminatory treatment of Small Gas Utilities. Valley therefore encourages the Commission to adopt revised regulations that eliminate unnecessary differential treatment of Small Gas Utilities while recognizing the operational and staffing limitations such utilities face.

Valley supports the Commission's proposal to amend Section 53.66 of its regulations to "reduce, consolidate and streamline" the filing requirements for Small Gas Utilities filing GCR tariffs.⁵ The proposed revisions will allow the Commission to appropriately evaluate the gas cost rates charged by Small Gas Utilities while eliminating redundancies and excess schedules. Valley encourages the Commission to recognize the staffing limitations of Small Gas Utilities and to utilize revised schedule formats that will be easy to modify and implement.

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 all Small Gas Utilities.⁶ The Commission correctly notes in the Proposed Rulemaking Order that it is more advantageous for Small Gas Utilities to make their initial GCR filings in September and final filings in October in order to accurately project winter gas costs and limit the need for corrections and updates to actual data between the initial and final filings.⁷ The Commission also proposes to amend section 56.33(c) of its regulations to coincide with the universal filing schedule, which would require Small Gas Utilities to file reconciliation statements under 66 Pa. C.S. § 1307(e) by October 1 of each year for the 12-month period running from September 1

⁴ See *id.* at 12-13.

⁵ See *id.* at 9.

⁶ See *id.* at 5-6.

⁷ See *id.* at 11.

through August 31.⁸ As a Group I Gas Utility, Valley currently makes its initial GCR filing in July and final filing in August, and is required to file its 1307(e) reconciliation statement by July 31 for the period of July 1 through August 31.⁹ Accordingly, Valley requests guidance from the Commission regarding its intended procedure during the transition year when Valley's rates will be in effect for 14 months rather than the 12-month period.

Valley does not oppose the Commission's proposal to eliminate the requirement that 90% of Small Gas Utilities' annualized gas costs be rolled into base rates to ensure that the GCR line charge of customers' bills represents 100% of gas costs.¹⁰ Because Valley is subject to the Natural Gas Choice and Competition Act, Valley does not include any gas costs in base rates. Therefore, Valley will be unaffected by the impact of this proposal.

Finally, Valley supports the Commission's proposal to allow Small Gas Utilities to collect interest from ratepayers on net undercollections as is currently permitted for 1307(f) utilities.¹¹ Since the passage of the Natural Gas Choice and Competition Act in 1999, 1307(f) utilities have enjoyed the unfair advantage of recovering interest from ratepayers on net undercollected gas. The Commission's proposal correctly identifies the unjustified inequitable treatment of Small Gas Utilities and appropriately extends an equal opportunity to Small Gas Utilities to recover a legitimate cost of service.

Although Valley supports the Commission's proposal to allow for interest recovery on net undercollections, Valley questions the Commission's proposal to utilize the interest rate calculated in the manner specified at 66 Pa. C.S. 1307(f)(5) as the interest rate applied to both

⁸ *See id.*

⁹⁹ 52 Pa. Code § 53.66(a)(2), (c).

¹⁰ *See Proposed Rulemaking Order at 4.*

¹¹ *See id.* As with other proposed revisions, Valley urges the Commission to ensure that these filing changes be simple to modify and implement.

over and under collections by Small Gas Utilities.¹² Group I Gas Utilities currently collect interest on net overcollected gas calculated pursuant to the average residential mortgage rate.¹³ In his statement accompanying the Proposed Rulemaking Order, Commissioner Cawley identifies and requests comment on five interest rate methodologies, including (1) the legal rate of interest; (2) the maximum residential mortgage rate; (3) the prime rate for commercial borrowing; (4) the LIBOR 3-month, 6-month, or 12-month rate; and (5) another interest rate.¹⁴ Valley submits that the proposed prime rate for commercial borrowing is the most optimal rate to apply to both over and under collections. Unlike the methodology set forth in 66 Pa. C.S. 1307(f)(5) or the residential mortgage rate, the prime rate for commercial borrowing most accurately reflects the cost of service associated with net over and under collections. Moreover, as Commissioner Cawley points out, the Pennsylvania legislature is currently considering a bill to amend Section 1307(f)(5) of the Public Utility Code that would modify the applicable interest rate for 1307(f) utilities to reflect the prime rate for commercial borrowing; however, passage of this modification for the 1307(f) NGDCs is not guaranteed.¹⁵ The commercial rate of interest more closely reflects the interest conditions faced by NGDCs. As a result, Valley recommends that the Commission adopt the prime rate for commercial borrowing as the most appropriate interest rate to apply to net over and under collections.

¹² See Proposed Rulemaking Order at 14.

¹³ See 66 Pa. C.S. § 1308(d).

¹⁴ *Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the Recovery of Fuel Costs by Gas Utilities*, Statement of Commissioner James H. Cawley, Docket No. L-2013-2346923 (May 9, 2013).

¹⁵ See *id.* (citing House Bill 1188, Printers No. 1484).

III. CONCLUSION

WHEREFORE, Valley Energy, Inc. respectfully requests that the Pennsylvania Public Utility Commission consider these Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By



Pamela C. Polacek (Pa. I.D. No. 78276)
Elizabeth P. Trinkle (Pa. I.D. No. 313763)
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to Valley Energy, Inc.

Dated: December 2, 2013

CERTIFICATE OF SERVICE

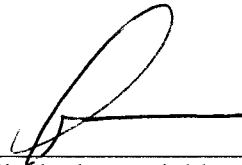
I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

John R. Evans, Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Johnnie Simms, Esquire
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120

Tanya McCloskey, Esquire
Aron J. Beatty, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place - 5th Floor
Harrisburg, PA 17101-1921



Elizabeth P. Trinkle
Counsel to Valley Energy, Inc.

Dated this 2nd day of December, 2013, at Harrisburg, Pennsylvania.