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December 17, 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 Reply 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

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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

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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 17th day of December, 2013, at Harrisburg, Pennsylvania.

**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

REPLY COMMENTS OF VALLEY ENERGY, INC.

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Counsel to Valley Energy, Inc.

Dated: December 17, 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" to streamline procedures for small gas utilities when submitting gas cost rate ("GCR") filings.¹ The Commission proposes, in relevant part, to allow "Small Gas Utilities"² 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). The Commission further proposes to adopt a GCR interim tariff filing procedure that would allow the filing to become effective on one day's notice.³

On December 2, 2013, Valley Energy, Inc. ("Valley" or "Company") filed Comments on the Proposed Rulemaking Order. Valley commended the Commission's efforts to streamline Gas Cost Rate ("GCR") filing procedures and urged the Commission to adopt revisions that provide optimal benefit to Small Gas Utilities while appropriately distinguishing these utilities from their 1307(f) counterparts.⁴ Specifically, Valley recommended that the Commission adopt the prime rate for commercial borrowing as the optimal interest rate to apply to both over and under collections. Valley further supported the Commission's proposal to amend Section 53.66 of its

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 The Proposed Rulemaking Order would eliminate the currently effective regulatory distinction between "Group I Gas Utilities" and "Group II Gas Utilities" and would instead refer to these utilities as "Small Gas Utilities." *See id.* at 5.

³ *See id.* at 19.

⁴ *Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the Recovery of Fuel Costs by Gas Utilities*, Comments of Valley Energy, Inc., Docket No. L-2013-2346923 (Dec. 2, 2013) ("Valley Comments").

regulations to implement a GCR interim tariff filing procedure while recognizing the operational and staffing limitations of Small Gas Utilities.⁵

The Office of Consumer Advocate ("OCA") also filed Comments on the Proposed Rulemaking Order on December 2, 2013. Although the OCA generally supported the Commission's proposal to streamline its GCR regulations and allow for interest recovery on net undercollections, the OCA proposed that "asymmetric interest treatment" be utilized for Small Gas Utilities consistent with 66 Pa. C.S §1307(f)(5).⁶ The OCA further supported the Commission's proposal to allow Small Gas Utilities to update the GCR effective upon one day's notice, but recommended limiting these interim updates to two per annual GCR period.⁷

Pursuant to the procedural schedule established by the Commission in this proceeding, Valley hereby files these Reply Comments to respond to the OCA's proposal to apply "asymmetric interest treatment" to interest recovery for net undercollections and its recommended limitation on interim updates to the GCR. Valley's decision not to respond to all arguments raised in the OCA's Comments should not be construed as agreement with those positions.

II. REPLY COMMENTS

In its Comments, the OCA recommends that Section 1307(f)(5) "asymmetric interest treatment" be utilized for Small Gas Utilities, meaning that the interest charged to ratepayers for net undercollections would be applied at the legal rate of interest, and the interest charged to the Small Gas Utility for net overcollections would be credited at the legal rate of interest plus two

⁵ See *id.* at 3.

⁶ *Proposed Rulemaking for Revision of 52 Pa. Code, Chapter 53 §§ 53.61-53.68, pertaining to the Recovery of Fuel Costs by Gas Utilities*, Comments of the Office of Consumer Advocate, Docket No. L-2013-2346923 (Dec. 2, 2013) ("OCA Comments").

⁷ See *id.* at 6.

percent.⁸ In the OCA's view, asymmetric interest treatment "provides for the reasonable recovery of costs to the [Small Gas Utility] while providing appropriate incentives to provide as accurate a rate as possible."⁹

Valley opposes the OCA's recommendation to impose a two percent addition to the legal rate of interest (or whatever alternative rate the Commission adopts) for net overcollections. Contrary to the OCA's assertion, asymmetric interest treatment is not necessary to incent accurate rate forecasting by Small Gas Utilities. As the Proposed Rulemaking Order makes clear, the Commission's intent in revising its GCR regulations is to address the "inequity to small gas utilities" under the Commission's current regulations while remaining cognizant of the "obstacles in the marketplace" Small Gas Utilities face due to operational and staffing limitations.¹⁰ In furtherance of this objective, the Commission determined that recovery of interest on net overcollections was appropriate for Small Gas Utilities, and that "no justification exists" for excluding Small Gas Utilities from the opportunity to recover a legitimate cost of service.¹¹ Given that the Commission has already determined that excluding Small Gas Utilities from interest recovery on net overcollections is unnecessary, imposing a two percent addition to the rate of interest credited to Small Gas Utilities merely adds an additional "obstacle" to achieving equitable regulatory treatment. Accordingly, Valley recommends that the Commission forego the use of asymmetric interest treatment for Small Gas Utilities.

The OCA's Comments further recommend that the Commission limit the number of interim GCR filings to two updates per annual GCR period.¹² The OCA cites concerns regarding multiple fluctuations in rates over a short period of time which may result in customer confusion

⁸ See *id.* at 3.

⁹ See *id.*

¹⁰ Proposed Rulemaking Order at 12.

¹¹ See *id.*

¹² See OCA Comments at 6.

and budgeting difficulties.¹³ By limiting the number of interim GCR filings to two per annual GCR period, the OCA contends that the "Commission's stated goals" would be achieved without generating customer confusion.

Valley opposes the OCA's recommendation to restrict interim GCR filings to two per annual GCR period. The proposed limitation is contrary to the Commission's stated intent in the Proposed Rulemaking Order to "to provide small gas utilities with a means to better manage their operations [while] remaining aware of their limited capabilities and resources."¹⁴ As the Commission makes clear, interim GCR filings would not be mandatory for Small Gas Utilities; rather, the proposed interim GCR filing policy encourages and facilitates regular monitoring of GCR activity as a good business practice.¹⁵ In fact, allowing Small Gas Utilities to regularly submit interim rate changes will limit the variance between actual costs and billed GCR rates. The OCA's proposal to restrict interim GCR updates to two per annual GCR period will likely achieve the result it purports to avoid: greater fluctuation in over/under collections and larger swings in gas rates to customers. Valley therefore encourages the Commission to reject the OCA's proposal to limit interim GCR filings to two per annual GCR period and to allow Small Gas Utilities to file interim updates as needed in furtherance of the goals of the Proposed Rulemaking Order.

¹³ *See id.*

¹⁴ Proposed Rulemaking Order at 18.

¹⁵ *See id.*

III. CONCLUSION

WHEREFORE, Valley Energy, Inc. respectfully requests that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, these Reply Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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