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October 31, 2017

VIA ELECTRONIC FILING
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code § 62.225
Docket No. L-2017-2619223

Dear Secretary Chiavetta:

Enclosed for filing are the Comments of WGL Energy Services, Inc. in response to the August 31, 2017 Advanced Notice of Proposed Rulemaking issued in the above-captioned matter.

If you have any questions, please do not hesitate to contact me. Thank you.

Best Regards,

STEVENS & LEE

Michael A. Gruin

Michael A. Gruin

Encl.
cc: Nathan Paul, Bureau of Audits (via email)
Kriss Brown, Law Bureau (via email)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PROPOSED RULEMAKING: NATURAL GAS COMPANY BUSINESS PRACTICES; 52 PA CODE § 62.225	: : : :	DOCKET NO. L-2017-2619223

COMMENTS OF WGL ENERGY SERVICES, INC.

WGL Energy Services, Inc. ("WGL Energy") hereby files comments on the Pennsylvania Public Utility Commission's ("Commission" or "PAPUC") Advance Notice of Proposed Rulemaking Order ("ANOPR") published in the Pennsylvania Bulletin on September 16, 2017 proposing to add to and to revise the regulations at 52 Pa. Code § 62.225. These regulations address the release, assignment and transfer of capacity among Natural Gas Distribution Companies ("NGDC") and Natural Gas Suppliers ("NGS"). The ANOPR follows a series of prior initiatives and orders by the Commission to improve the working of the competitive retail gas supply market in Pennsylvania and in particular considers input from stakeholders as a result of the Commission's 2015 Natural Gas Retail Markets Investigation ("Gas RMI"). The ANOPR proposes to make further improvements to the competitive market by revising the current regulations regarding how NGDCs assign capacity and recover their capacity costs (e.g. from all customers regardless of their shopping status via a non-bypassable charge) and it addresses related issues such as penalties and imbalance trading.

The Gas RMI investigation followed an earlier investigation in 2005 of the competitive gas supply market in Pennsylvania (Docket No. I-00040103). The Commission submitted a report of its findings to the General Assembly and then initiated a proposed rulemaking in 2009 (Docket L-2009-2069117) to adopt uniform business and operating rules in order to improve the market. That rulemaking addressed numerous competitive market issues such as capacity assignment, the use of storage assets, imbalance penalties and the like, but was withdrawn in 2014 and the Gas RMI investigation was initiated in 2015. In its Final RMI Order, the Commission outlined its priorities and finalized specific action plans to be undertaken by the Office of Competitive Market Oversight ("OCMO"). OCMO was directed to explore such issues as the release, assignment, and transfer of capacity from NGDCs to NGSs and the recovery of related NGDC costs and to provide recommendations to change the regulations to the Commission (Order of December 18, 2014, RMI Docket L-2013-2381742). OCMO conducted several collaborative working group meetings and based on those discussions OCMO completed a staff discussion document with recommendations that it submitted to the Commission on September 23, 2015 for its consideration. After considering the recommendations, the Commission issued the instant ANOPR and asks for comments on the proposed rule changes within 45 days of publication.

WGL Energy appreciates the opportunity to submit comments on the following rule changes proposed in the ANOPR that would affect the release, assignment or transfer of NGDC capacity to NGSs: (1) uniform capacity costs for all customers; (2) capacity assignment from all assets; (3) imbalance trading; and (4) penalty structure during non-peak times.

(1) Uniform capacity costs for all customers

Under the current structure, and in most NGDC service territories, an NGDC's capacity releases for shopping customers are paid for by the NGS providing service. As noted in the ANOPR, the Gas RMI Stakeholder Group discussed the fair use and payment for capacity, and in particular, the NGDC risk of not being able to recover capacity costs if NGS's default and the NGS risk of not being able to recover capacity costs when customers switch suppliers or return to the utility. NGSs also questioned the feasibility of peak day designs or unfettered access to all capacity assets as barriers to the market (ANOPR, page 7). The ANOPR recognizes a benefit to the market and to both NGDSs and NGSs if the risks of capacity assignment and cost recovery can be reduced without any attendant risk to system reliability. To accomplish this, the ANOPR cites, and the Commission proposes to adopt, the Peoples Natural Gas Company capacity release model across the state for the assignment of and payment for capacity. Under this model, NGDCs release capacity to NGSs for use to serve their customers with recall and all customers (regardless of their participation in the competitive market) pay the average system cost of capacity through a non-by-passable charge (rather than suppliers paying for all of the released capacity).

The ANOPR propose the following revised language (marked in bold):

> 52 PA Code § 622.225(a)(3): *A release, assignment or transfer* ***[must be based upon the applicable contract rate for] of*** *capacity or Pennsylvania supply* ***[and] shall*** *be subject to applicable contractual arrangements and tariffs.* ***Capacity or Pennsylvania supply costs shall be charged to all customers as a non-bypassable charge based on the average contract rate for those services.***

WGL Energy supports the proposed modification and agrees with the benefits that it would provide to the market, NGSs, NGDCs, and customers. The rule change would potentially reduce the risk for NGSs and simultaneously enable them to enhance their services to customers. As the ANOPR points out, currently NGSs must pay NGDCs for released capacity and then attempt to recover the related costs from customers while attempting to outperform default service, provide value added services, and earn profits (ANOPR, page 8). By eliminating the need for NGSs to pay for capacity upfront and then be at risk to recover the payments just to break even, NGSs would have a greater opportunity to focus their efforts on providing more competitive and innovative products and possibly lower their price offerings.

There is one important related issue that WGL Energy would like the Commission to consider in adopting a final rule -- how best to reflect this change on the customers' utility bill. WGL Energy cautions that if NGDCs place a new line item on the customer's utility bill displaying the non-by-passable charge only after a customer chooses an NGS, this may have unintended consequence of confusing customers as they may mistake the new line item charge as a newly added charge which they had not seen on their previous utility bills.

WGL Energy can cite one instance where a separate line item capacity charge was part of the billing structure of a gas utility in the Commonwealth of Virginia. Columbia Gas of Virginia's bills to customers receiving commodity from the utility displayed two separate charges: (1) the distribution charge (the capacity charge was bundled into the distribution charge); and (2) the commodity charge. When a customer would sign up with an NGS, the capacity charge (the balancing and storage fee) was unbundled from the distribution charge, and would then appear as a separate line item on the customer's bill. This would happen only when a customer signed up to receive supply service from a retail supplier. As a result, some customers misunderstood the new line item charge as a newly added charge on their bill, whereas it was only a change in the mechanics of the billing structure, and not a newly added charge. Furthermore, this billing feature negatively affected the customer-supplier relationship, weakened customer retention, and caused customers to leave their supplier for mistakenly believing their bills had suddenly increased in price, when in fact they had not. The situation was alleviated when the gas utility changed the billing structure.

Therefore, WGL Energy recommends that the bills of all customers, shopping and non-shopping, be are treated the same -- the capacity charge should be decoupled from the distribution charge and displayed on all customers' bills at the outset of implementing the new capacity cost recovery model. This will ensure that all customers are given the same, transparent breakdown of information of their energy charges displayed on their energy bills, whether the customer is receiving commodity service from the NGS or the NGDC.

(2) Capacity assignment from all assets

The ANOPR notes the general principle that capacity necessary to serve a customer should migrate with the customer (referred to as "slice of the pie" assignment), but there are differences among NGDCs as to what assets are released to NGSs. The ANOPR observes that control of LNG plants cannot be offered to NGSs as part of capacity release, that certain legacy capacity associated with an NGDC's Section 7(c) certificated capacity granted by FERC cannot be legally unbundled and released, and that certain capacity that is critical to a distribution system's reliability cannot be released. The ANOPR further observes that some NGDCs have developed techniques to work around the "slice of the pie" principle, such as allowing NGSs to supply "make up gas" in the summer for LNG use in the winter and creating "virtual storage" services to enable NGSs to benefit from Section 7(c) capacity. The ANOPR posits that there may be other options with similar benefits.

In the ANOPR the Commission is proposing a statewide approach for NGDCs to assign to NGSs for limited use and to recover the costs of certain critical capacity assets such as an LNG facility or storage that have been traditionally used to serve firm peak loads and cannot follow the customer via assignment to a competitive gas supplier. The new rule would assign such costs to NGSs on a "slice-of-the-pie" basis. In effect, the Commission proposes a "virtual access" approach which would allow the NGS to receive the benefits of and pay for a portion of restricted or critical assets. Because of reliability concerns, the Commission is seeking further input from stakeholders.

The ANOPR proposed the following revised language (marked in bold):

> 52 PA Code § 622.225(a)(2): *A release of an NGDC's pipeline and storage capacity assets must follow the customers for which the NGDC has procured the capacity, subject only to the NGDC's valid system reliability and Federal Energy Regulatory Commission constraints.* ***When release must be restricted due to reliability or other constraints, an NGDC shall develop a mechanism that provides proxy or virtual access to the assets.***

WGL Energy respectfully does not support a modified rule that would change the current programs that NGDCs have in place to deal with critical assets such as LNG and storage. WGL Energy believes that such a new rule would result in additional, unnecessary burdens for NGSs without commensurate benefits. As noted in the ANOPR, NGDCs have already developed techniques to work around these capacity asset restrictions and charges to recover the cost of these assets are already paid for by all customers in their distribution rates. WGL Energy believes that NGDCs' current efforts are sufficient and requests that the current system remain intact.

In addition, and on the topic of the timeframe of capacity release, WGL Energy recommends the Commission make it a standard that all capacity releases be executed one month at a time, as is the current practice of some NGDCs. Certain NGDC's, such as Columbia Gas of Pennsylvania, release pipeline capacity every month based on the annual usage of new customers, renewing customers and multi-year customers that have an annual "anniversary" of service with the NGS in that month. They release this capacity for a 12 month period, regardless of the length of time that the customer is actually with the NGS.

This one-year timeframe period can cause a conflict in the operation and management of an NGS customer's gas capacity. For example, an NGDC will release capacity to 2 different NGS's for the same customer for an overlapping period if the customer switches between NGS's on any date other than an annual anniversary. If a customer signs with one NGS for 6 months (or leaves that NGS after 6 months) and then signs with another NGS, Columbia Gas of Pennsylvania will assign capacity to that new NGS for a 12 month period, yet it will not recall the capacity it released to the previous NGS and instead merely lets it expire at the end of the 12 month period. Therefore the NGS must pay for capacity released for a customer that it no longer serves.

Another example occurs when the customer switches back to the NGDC in any month other than the annual anniversary of the commencement of service from the NGS. In this situation the NGS continues to pay for the capacity until the annual anniversary is reached, while the customer is being served by the NGDC. Another problem with releasing capacity every month for an annual term is that NGS's can have up to 12 different portions of capacity release (each with several different delivery points) to schedule every day. Each capacity release must then be scheduled individually on the utility as well. This is a tremendous burden on the NGS. If the total amount of capacity needed for its customers is released to the NGS monthly this workload and complexity would be reduced tremendously.

For these reasons, WGL Energy recommends the Commission make it a standard practice that all capacity releases be executed on a monthly basis, rather than on a yearly basis.

(3) Imbalance Trading

The ANOPR observes the principle that penalties help ensure safe and reliable service in the natural gas market and that there are key differences in the design of penalties between Transportation programs (applicable to larger commercial customers) and gas choice programs (applicable to the mass market). In this regard the ANOPR points out that currently, NGDCs' natural gas choice programs experience minor imbalances that subject NGSs to penalties whereas the same is not the case for Transportation programs. During RMI discussions, some stakeholders raised concerns about the limited communication and the lack of real time information provided by NGDCs to NGSs regarding delivery imbalances. Due to this limited communication, there may be occasions when a mistake in nomination by an NGS may not be identified until later in the process, but a penalty is still assessed on the NGS (ANOPR, pages 14-15).

To better enable NGSs to manage imbalances, the Commission proposes a rule that would enable daily imbalance trading between market participants (for both natural gas choice and transportation customers) as a feature of the state's retail natural gas market. In proposing the new rule, the Commission notes that imbalance trading at the NGDC level (i.e., non-FERC jurisdictional) and between natural gas choice and transportation programs could provide the market with a tool to enhance reliability while simultaneously providing an opportunity for NGSs to avoid penalties that do not threaten reliability (ANOPR, page 15).

The ANOPR proposed the following new section (marked in bold):

> 52 PA Code § 622.225(5)(i)(ii): ***(5) An NGDC shall provide the opportunity for imbalance trading on the day the imbalance occurred. Capacity may be traded between market participants provided that either:***
>
> ***(i) The trade improves the position of both parties.***

(ii) The trade improves the position of one party and is agreed to by the second party but does not negatively impact the second party's imbalance.

WGL Energy strongly supports the Commission's proposal for imbalance trading as long as the rules do not cause an NGS or NGDC to go outside of the imbalance tolerance threshold, which has been ongoing in the marketplace without a rule in effect. For example, Philadelphia Gas Works does not allow imbalance trading and it has very strict penalties when NGSs are out of balance.

WGL Energy proposes a slight modification to the language to clarify that trades should be allowed between parties as long as they do not cause either party to go outside the NGDC tolerance threshold. For example, if Party A is positive, but Party B is negative and outside the allowable tolerance, a trade may be conducted that brings Party B inside the tolerance, and causes Party A to flip from positive to negative, but still remain within the applicable tolerance threshold. WGL Energy proposes the following language for 52 PA Code § 622.225(5)(ii):

(ii) The trade improves the position of one party and is agreed to by the second party and does not cause the second party to move outside the allowable imbalance tolerance.

(4) Penalty structure during non-peak times

The ANOPR observes that in Pennsylvania and within each NGDC, there is a difference in penalty structure during system peak demand periods and off-peak demand periods. The RMI discussions focused on off-peak periods as stakeholders recognized the significance of peak period penalties as being critical during the winter months when non-adherence to imbalance restrictions can cause harm to system reliability. Stakeholders pointed out that during non-peak periods, some NGDCs set penalties at a static and specific level (i.e., $x.xx per volume of gas), while others use the market price of gas and multiply it by some penalty level (ANOPR, page 17). In the ANOPR the Commission expresses concern that static penalties risk creating inflexible and at times inaccurate reflection of market conditions and can be overly burdensome to NGSs. The Commission thus recognizes the importance of implementing a standardized off-peak penalty mechanism across Pennsylvania that is both fair and adequate in order to reduce barriers for increased NGS participation in the retail natural gas market. To accomplish this goal, the Commission proposes establishing utility delivery penalties during system off-peak periods based upon the utility's local gas costs. Moreover, the Commission suggests that an NGDC could use a local hub or utilize a system average cost as its base market price for natural gas and then use a straight multiplier to determine the penalty amount.

The ANOPR proposes the following new provision for off-peak penalties (marked in bold):

> 52 PA Code § 622.225(6)(i)(ii): ***(6) Penalties during system off-peak periods must correspond to market conditions.***
>
> ***(i) An NGDC shall use the system average cost of gas as the reference point for market based penalties. If an NGDC takes service from a local hub, it may use the local hub as a reference point for market based penalties***
>
> ***(ii) The lowest penalty must be set at the market price.***

WGL Energy notes that NGDCs can now impose summer (non-peak demand) penalties on NGSs and that the penalties imposed in some cases are unreasonable. Since generally there is significant over delivery in the summer period, WGL Energy submits that NGSs should have greater flexibility during this period than is currently the case, because the impact of over delivery in the summer on system reliability is not as significant as in the winter. WGL Energy understands that NGDCs may be justified in charging NGSs for imbalances if the charges follow what the natural gas pipelines are charging NGDCs. Accordingly, WGL Energy recommends the following modification to section (ii) of 52 PA Code § 622.225(6) as follows:

> **(ii)*The highest penalty must be set at the higher of the market price and any cost incurred by the NGDC.***

CONCLUSION

WGL Energy appreciates the opportunity to offer comments on the Commission's ANOPR that would revise and supplement current rules pertaining to the release, assignment and transfer of capacity among NGDCs and NGSs. When the Commission adopts final regulations in a future rulemaking WGL Energy asks that NGSs be given a requisite amount of time to prepare for implementation which, depending on the scope of the final regulations, might be at least sixty days. WGL Energy remains committed to working with the Commission and its Staff on all issues that affect the competitive energy marketplace in the state of Pennsylvania.

Respectfully submitted,

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