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September 9, 2010

**BY HAND DELIVERY**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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In re: Docket No. L-2008-2069114  
Natural Gas Distribution Companies and the  
Promotion of Competitive Retail Markets

Dear Secretary McNulty:

Enclosed for filing on behalf of Equitable Gas Company, LLC are an original and fifteen copies of its Comments to the Public Utility Commission's Advance Notice of Final Rulemaking Order entered August 10, 2010, in the above matter.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

Thomas T. Niesen

cc: David E. Screven, Esquire (w/encl.)  
Richard Wallace (w/encl.)  
Daniel L. Frutchey, Esquire (w/encl.)  
John M. Quinn (w/encl.)

100909-Chiavetta (Comments).wpd

**Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Natural Gas Distribution Companies** :  
**And the Promotion of Competitive** : **Docket No. L-2008-2069114**  
**Retail Markets** :

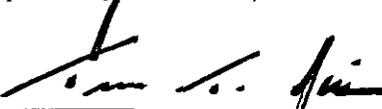
**COMMENTS OF EQUITABLE GAS COMPANY, LLC  
TO THE ADVANCE NOTICE OF FINAL RULEMAKING  
ORDER ENTERED AUGUST 10, 2010**

AND NOW, comes Equitable Gas Company, LLC (“Equitable” or “Company”), by its attorneys, and, submits the following Comments in accordance with the Public Utility Commission’s (“Commission”) Advance Notice of Final Rulemaking Order (“ANOFR Order”) entered August 10, 2010, in the above captioned proceeding:

1. On August 10, 2010, the Commission entered the above referenced ANOFR Order, adopted at its Public Meeting of July 29, 2010, presenting proposed final form regulations addressing the relationship between Natural Gas Distribution Companies (NGDCs) and Natural Gas Suppliers (NGSS) which sell, or seek to sell, natural gas to end users on the NGDC distribution systems.
2. The ANOFR Order invites interested parties to submit comments on the proposed regulations set forth in Annex A to the Order. The ANOFR Order asks that comments focus on revisions to the proposed regulations, and not to revisit issues already addressed in previously submitted comments.
3. Equitable is pleased to have the opportunity to comment on the ANOFR Order at Docket No. L-2008-2069114. Equitable’s Comments are presented in the Appendix A attached hereto for discussion purposes in response to the Commission’s invitation and without prejudice to any position Equitable might take in any subsequent proceeding or proceedings involving these or any other matters. Equitable is also joining in comments being filed by the Energy Association of Pennsylvania.

WHEREFORE, Equitable Gas Company, LLC submits these Comments to the Public Utility Commission’s Advance Notice of Final Rulemaking Order entered August 10, 2010.

Respectfully submitted,

By 

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Date: September 9, 2010

Attorneys for Equitable Gas Company, LLC

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## APPENDIX A

EQUITABLE GAS COMPANY, LLC  
("Equitable" or "Company")

Comments to the Public Utility Commission's  
Advance Notice of Final Rulemaking Order and Proposed Regulations at  
52 Pa. Code, Chapter 62, Section 62.221, *et seq.*

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### General Comments

The proposed regulations seek to identify and remove several cost elements from NGDC base rates outside of a base rate proceeding. Equitable believes that there may be significant factual and legal hurdles associated with an attempt to identify and remove costs from base rates outside of a base rate proceeding. It would certainly seem to be arguable that the proposed regulations contemplate single issue ratemaking which is often claimed to be contrary to established ratemaking principles. Moreover, as may be the situation with other NGDCs, Equitable's base rates were determined through a "black box" settlement which impedes a line-by-line identification and removal of cost elements from base rates outside of a base rate proceeding.

### Comments to Specific Proposed Regulations

#### §62.222

PTC – Adjusting the bill to present the Price to Compare (PTC) as a separate line item will result in additional programming costs to the NGDC to enhance its billing system and, more importantly, could unintentionally create customer confusion by introducing a new term on the bill.

#### §62.223

Section 62.223 – Price to Compare (PTC) – provides that the PTC shall include the gas cost rate, including the reconciliation for over and under collections. Equitable believes that the reconciliation component should be removed from the PTC. The reconciliation is a cost component arising from a prior period and not properly included in the estimation of the current cost of gas, nor applicable to customers returning to SOLR service for one year consistent with all NGDC's Migration Rider which were approved by Commission Orders during Restructuring Proceedings. Equitable believes that the inclusion of the reconciliation for over and under collections in the PTC would misinform customers about current natural gas market prices and therefore unintentionally mislead customers. The Migration Rider allows NGDCs in the current period to return (in the case of an overcollection) or collect (in the case of an undercollection) costs incurred during the prior PGC period.

The PTC is also to include a Gas Procurement Charge (GPC), which is defined in Section 62.222 as an element of the PTC that reflects the NGDCs' "total natural gas procurement costs."

Examples of procurement costs are presented in Section 62.223. The GPC, however, should reflect only those procurement costs that are avoidable. The word “total,” thus, should be removed from the definition of the GPC, and the GPC should be defined as limited to avoidable procurement costs. Procurement costs that are unavoidable should be paid by all customers, both SOLR customers and those customers who choose to shop and transport natural gas. Examples of unavoidable procurement costs are natural gas supply management costs, including credit, risk management, contracting, procurement, scheduling and forecasting, as well as administrative and general expenses, such as regulatory and information systems, related to those activities.

The filings to implement the GPC and the Merchant Function Charge (MFC) include both a Section 1308(a) tariff filing and a Section 1307 automatic adjustment clause tariff filing. The regulations do not allow reconciliation of either the GPC or the MFC which would seem to be inconsistent with Section 1307. Section 1307 contemplates reconciliation for Section 1307 automatic adjustment mechanisms. The regulations also provide for audit of both the GPC and the MFC. If the charges are to be adjusted quarterly and not reconciled, the audit would seem to serve no purpose.

#### **§62.224**

Section 62.224 – Purchase of Receivables (POR) –If the NGS elects the POR option the remittance of customer revenue should be made to the NGDC regardless of which party invoices the customer.

#### **§62.225**

Section 62.225 – Release, Assignment or Transfer of Capacity – The proposed regulation addresses the release, assignment or transfer of capacity and would require an NGDC to release, assign or transfer contracts for firm storage or transportation capacity to licensed NGSs or large commercial or industrial customers as set forth in 66 Pa. C.S. § 2204(e). The new word “shall” in the proposed regulation is inconsistent with Section 2204(e). Section 62.225 either should be revised consistent with the statute or removed entirely.

### **Comments to Annex A Proposed Final Form Regulations**

Equitable’s suggested changes to the proposed final form regulations are presented in the following redlined version of Annex A to the ANOFR Order.

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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 which will ~~provide a more level playing field between NGDCs and NGSs and, therefore,~~ promote competition for natural gas supplies.

§ 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 ~~TOTAL NATURAL GAS PROCUREMENT COSTS~~ NET OF SUPPLIER OF LAST RESORT COSTS. A ~~mechanism by which the effect of natural gas procurement costs removed from an NGDC's base rates are recovered.~~

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

*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 A RATE FOR NATURAL GAS SUPPLY service OFFERED BY AN NGDC 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, INCLUDING THE RECONCILIATION FOR OVER AND UNDER COLLECTIONS.

(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 NON-SOLR 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) The GPC MAY BE UPDATED QUARTERLY WITH EACH APPLICABLE 1307(F) FILING. 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.

(2) NON-CHOICE AND SOLR RELATED 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.

~~(e) (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.~~

**§ 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:

- (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 WITH CUSTOMER BILLED REVENUE REMITTED TO THE NGDC;
- (II) AN NGS PARTICIPATING IN AN NGDC'S POR PROGRAM MAY SEPARATELY BILL A CUSTOMER, WITH CUSTOMER BILLED REVENUE REMITTED TO THE NGDC, IF THE NGS IS PROVIDING A SERVICE OR PRODUCT THAT DOES NOT MEET THE DEFINITION OF BASIC NATURAL GAS SUPPLY SERVICE.

~~(3) An NGDC-NGDC'S may voluntarily purchase NGS accounts receivable at a discount~~ POR PROGRAM SHALL 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.

~~(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 NEW OR RENEWED contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or

a city natural gas distribution operation, ~~may~~ SHALL MAY 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, AS SET FORTH IN 66 PA. C.S. § 2204 (E).

(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 through 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.~~