



National Fuel

Christopher M. Trejchel
Assistant General Counsel

June 16, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Natural Gas Distribution Companies and Promotion
Of Competitive Retail Markets
Docket No. L-2008-2069114

Dear Secretary Chiavetta:

Pursuant to the Secretarial Letter entered on June 9, 2011, at the above-referenced docket, enclosed for filing are an original and 15 copies of the Comments of National Fuel Gas Distribution Corporation. This document is also being filed electronically.

If you have any questions regarding this filing, please feel free to contact me at (814) 871-8060.

Very truly yours,

Christopher M. Trejchel

CMT/cjc

Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Natural Gas Distribution Companies and
the Promotion of Competitive Retail
Markets** :
: **COMMENTS**
:
:
:
: **Docket Number: L-2008-2069114**
:

**COMMENTS OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION
TO THE REVISIONS TO ANNEX A (JUNE 9, 2011)**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. Introduction.

On February 23, 2011 the Pennsylvania Public Utility Commission (the “Commission”) entered a *Final Rulemaking Order* (the “Order”) in this matter containing proposed regulations to be added to 52 Pa. Code §§ 62.221 – 62.227 (the “Proposed Regulations”). On May 18, 2011, the Order was withdrawn from the Independent Regulatory Review Commission by the Commission so that it could make certain clarifying changes to the Proposed Regulations. On June 9, 2011, the Commission issued a Secretarial Letter inviting comments to its proposed changes to Annex A by June 16, 2011. A separate statement was published by Commissioner Tyrone J. Christy wherein he reiterated his concerns about including unavoidable Supplier of Last Resort (“SOLR”) costs and reconciliation for over and under collections (E-factor) in the Price to Compare (“PTC”).

National Fuel Gas Distribution Corporation (“National Fuel”) submits the following Comments regarding the Proposed Regulations.

II. Comments

Although the Commission has made a number of needed clarifying changes in its proposed regulation published for comment on June 9, 2011, further clarifications are required to proposed 52 Pa. Code § 62.223.

PGC – Purchased Gas Cost – Proposed 52 Pa. Code § 62.223(a)(1)

References to PGC should be deleted from the proposed regulation and should be replaced with the term “Natural Gas Supply Charge.”

The Commission’s proposed revision to § 62.223(a)(1) would replace the phrase “the gas commodity rate determined in the NGDC’s section 1307(f) proceeding” with the defined term “PGC.” This is a substantial change from the previous language because the definition of PGC is much broader than just the gas commodity rate and would include other items such as pipeline capacity and storage service demand charges used to balance both the system supply requirements of the NGDC’s sales customers and the requirements of NGS customers incurred to perform SOLR functions, among other unavoidable services, which in our opinion should be excluded from the PTC (see below). As a result, we recommend that the Commission delete the definition of PGC and replace that term in § 62.223(a)(1) and § 62.223(c)(1) and (3) with the phrase “the Natural Gas Supply Charge determined in the NGDC’s section 1307(f) proceeding.”

Natural Gas Procurement Costs – Proposed 52 Pa. Code § 62.223(b)(1)

The proposed revisions to 52 Pa. Code § 62.223(b)(1) bring both clarity and raise additional questions. On the one hand, including an exclusion related to the administration of firm storage and transportation capacity is a positive change that clarifies a discrepancy that

existed between the final form regulation and the preamble thereto; but on the other hand, the elements remain very broad and general in nature. National Fuel remains concerned that the use of these broad undefined elements will only result in unnecessary and costly litigation in the rate cases that each NGDC will be required to file upon adoption of these regulations. Furthermore, the revisions do not address the concerns regarding SOLR costs that have been consistently raised in the comments of interested parties, the *Statements* of Commissioner Christy, and the comments of the Independent Regulatory Review Commission.

Regarding the exclusion for firm storage and transportation capacity that the Commission added to Annex A, National Fuel recommends that the same exclusion be added to 52 Pa. Code § 62.223(b)(1)(i). By referencing the exclusion only in subparagraph (ii), the exclusion could be interpreted as only applying to administrative type costs. Such an interpretation would be contrary to the Commission's comments set forth on page 20 of the preamble to the Order. The change proposed by National Fuel in the amended version of Annex A attached clarifies this point consistent with the Commission's comments.

Including all SOLR costs in the PTC ignores the fact that the gas supply administration staffs of NGDCs do more than purchase natural gas supplies for end use and, even if all customers were shopping, the gas supply administration role of the NGDC would still be necessary due to its obligations as the SOLR. As the SOLR, a NGDC must meet the needs of small volume customers at any time. As provided in 66 Pa. C.S. § 2207(a)(2), a NGDC as the SOLR must provide one or more of the following:

- (i) natural gas supply services to those customers who have not chosen an alternative NGS or who choose to be served by their SOLR;
- (ii) natural gas supply service to those customers who are refused supply service from a NGS; or

(iii) natural gas supply services to those customers whose NGS has failed to deliver its requirements.

If all NGSs were responsible for supplying the services and incurring the costs associated with meeting the obligations set forth in § 2207(a)(2), there would be no need to have a designated SOLR. However, until the controlling statute is changed or SOLR functions are assumed by NGSs, certain SOLR costs will remain unavoidable fixed costs of the NGDC that should not be included in the PTC because those costs benefit both shopping and non-shopping customers. Notably, no alternative supplier of natural gas SOLR service has been appointed by the Commission in the Commonwealth of Pennsylvania nor are we aware of any volunteers. National Fuel submits that reason for this is that there is little or no benefit in assuming SOLR obligations because of the associated costs - - *ie*, the same unavoidable costs that should be excluded from the PTC.

Contrary to some parties' beliefs, NGDCs cannot easily and efficiently ramp up gas procurement functions on a moments' notice to fill the gaps in NGS supplies and resume service to former shopping customers. An NGDC must expend the time, money and resources necessary to stand ready and prepared to serve the small volume customers in its service territory. To do otherwise would be contrary to the NGDC's obligations under 66 Pa. C.S. § 2205(a) to ensure the safe and reliable operation of its distribution system.

Finally, National Fuel fully supports the comments of Commissioner Christy regarding SOLR costs in his *Statement* issued June 9, 2011, and we strongly urge the Commission to exclude unavoidable SOLR costs from the PTC.

Reconciliation for Over and Under Collections (E-factor) – Proposed 52 Pa. Code § 62.223(b)(1)

Inclusion of the reconciliation for over and under collections (*i.e.*, E-factor) in the PTC will result in further customer confusion and contrary to the intent and goals of the proposed regulation it will not result in an apples-to-apples comparison. See, Statement of Commissioner Tyrone J. Christy, June 9, 2011. Adding the E-factor to the PTC when there is a migration rider in place, regardless of whether that factor is 3 or 12 months, will inaccurately identify the charges that a customer will avoid from the NGDC when they choose a NGS. NGDCs will be compelled to explain to customers why the PTC is the “price *not* to compare” for the first 3 to 12 months. As noted by Commissioner Christy:

“Including the E-factor in the PTC is doing a disservice to consumers as it is misleading and misinforms them of the current market prices of natural gas. Inappropriate price signals are going to be given to consumers as a result. Also, consider that when a shopping customer returns to SOLR service that customer is not subject to the E-factor for one full year. Consumers need clear pricing signals, not more confusion.”
Statement of Vice Chairman Tyrone J. Christy, January 13, 2011, at 3.

The PTC will be artificially over/understated by including the E-factor resulting in an unlevel playing field for all market competitors. Rather than reducing complexity for NGDCs and their customers, the proposed regulation will only serve to increase complexity for customers and increase volatility of the PTC.

III. Conclusion

For the reasons set forth above, National Fuel Gas Distribution Corporation recommends that the Commission modify the proposed regulation as indicated in the amended version of Annex A attached to these comments.

Dated: June 16, 2011

Respectfully submitted,



Christopher M. Trejchel

Pa. I.D. No. 84513

Attorney for National Fuel Gas
Distribution Corporation

P.O. Box 2081

Erie, PA 16512

(814) 871-8060

(814) 871-8061 fax

trejchelc@natfuel.com

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 Natural Gas Choice and Competition Act).

BASE RATE—THE CUSTOMER CHARGE, DISTRIBUTION CHARGE AND OTHER RATES THAT ARE ESTABLISHED IN A SECTION 1308 PROCEEDING, 66 PA. C.S. § 1308 (RELATING TO VOLUNTARY CHANGES IN RATES).

BASIC SERVICE—AS DEFINED IN § 62.72 (RELATING TO DEFINITIONS).

GPC--*Gas procurement charge*—AN ELEMENT OF THE PTC, EXPRESSED ON A PER MCF OR DTH BASIS, THAT REFLECTS AN NGDC'S NATURAL GAS PROCUREMENT COSTS AND THAT IS REMOVED FROM THE NGDC'S BASE RATE AND RECOVERED THROUGH A SEPARATE CHARGE. ~~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, 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 AN NGDC’S NATURAL 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).~~

~~PGC--Purchased 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 service. 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. AS DEFINED IN § 62.80 (RELATING TO COMMON NATURAL GAS COMPETITION TERMS).~~

~~SOLR--Supplier of last resort—AN NGDC OR 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 ~~PGC~~ NATURAL GAS SUPPLY CHARGE 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) (RELATING TO VOLUNTARY CHANGES IN RATES) TO IDENTIFY THE NATURAL GAS PROCUREMENT COSTS INCLUDED IN BASE RATES AND SHALL PROPOSE TARIFF REVISIONS DESIGNED TO REMOVE THOSE COSTS, INCLUDING AVOIDABLE SOLR COSTS, FROM BASE RATES AND TO RECOVER THOSE ANNUAL COSTS AS PART OF THE PTC ON A REVENUE NEUTRAL BASIS.~~

(1) NATURAL GAS PROCUREMENT COSTS SHALL INCLUDE THE FOLLOWING ELEMENTS:

(I) NATURAL GAS SUPPLY SERVICE, ACQUISITION AND MANAGEMENT COSTS, INCLUDING NATURAL GAS SUPPLY BIDDING, CONTRACTING, HEDGING, CREDIT, RISK MANAGEMENT COSTS, AND WORKING CAPITAL, EXCLUDING THOSE RELATED TO FIRM STORAGE AND TRANSPORTATION CAPACITY.

(II) ADMINISTRATIVE, LEGAL, REGULATORY AND GENERAL EXPENSES RELATED TO THOSE NATURAL GAS PROCURMENT ACTIVITIES, EXCLUDING THOSE RELATED TO THE ADMINISTRATION OF FIRM STORAGE AND TRANSPORTATION CAPACITY.

(2) AN NGDC'S NATURAL GAS PROCUREMENT COSTS SHALL BE UPDATED IN ITS NEXT BASE RATE CASE.

(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 RIDER. THE MFC RIDER MUST REMOVE THE COST OF UNCOLLECTIBLES APPLICABLE TO NATURAL GAS COSTS FROM ITS DISTRIBUTION RATES AND RECOVER THOSE ANNUAL COSTS AS PART OF THE PTC ON A REVENUE NEUTRAL BASIS.

(1) A WRITE-OFF FACTOR FOR EACH CUSTOMER CLASS SHALL BE DETERMINED BY DIVIDING THE UNCOLLECTIBLE EXPENSE BY REVENUES. THIS FACTOR APPLIED TO THE CURRENT PGC-RATES-NATURAL GAS SUPPLY CHARGE DETERMINED IN THE NGDC'S SECTION 1307(F) PROCEEDING SHALL BE THE IMPLEMENTATION MFC AMOUNT THAT SHALL BE REMOVED FROM DISTRIBUTION RATES ON A REVENUE NEUTRAL BASIS.

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

(3) THE MFC FOR EACH CUSTOMER CLASS SHALL BE EQUAL TO THE WRITE-OFF FACTOR TIMES THE CURRENT PGC-RATE-NATURAL GAS SUPPLY CHARGE DETERMINED IN THE NGDC'S SECTION 1307(F) PROCEEDING AND SHALL BE UPDATED QUARTERLY TO REFLECT THE NEW PGC-RATES-NATURAL GAS SUPPLY CHARGE EFFECTIVE WITH EACH 1307(F) FILING.

(4) THE WRITE-OFF FACTOR SHALL BE UPDATED IN AN NGDC'S NEXT BASE RATE CASE.

(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 RIDERS MUST IDENTIFY:

(1) HOW THE SURCHARGES SHALL BE CALCULATED.

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

(I) CUSTOMER CLASS.

(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 FOR ANY PRIOR PERIOD OVER OR UNDERCOLLECTIONS.~~

~~(e) 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.~~

~~-(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 NGS ELECTING TO SELL ITS RECEIVABLES TO AN NGDC SHALL INCLUDE ALL OF ITS ACCOUNTS RECEIVABLES RELATED TO CHOICE RESIDENTIAL AND SMALL BUSINESS BASIC SERVICE IN THE POR PROGRAM.

~~(2)~~ (3) An NGDC NGS ~~may~~ SHALL ONLY ~~purchase~~ SELL receivables associated with BASIC ~~natural gas supply~~ service charges and may not ~~purchase~~ SELL other receivables ~~that may be incurred by NGSs~~ RELATED TO PRODUCTS AND SERVICES SOLD IN RELATION TO BASIC SERVICE OR IN ADDITION TO BASIC SERVICE TO THE NGDC POR PROGRAM. The NGS shall certify that charges do not include receivables for any other products or services.

(4) IN ORDER TO QUALIFY FOR PARTICIPATION IN AN NGDC'S POR PROGRAM, AN NGS SHALL USE CONSOLIDATED BILLING FROM THE NGDC, UNLESS THE NDGS'S CONSOLIDATED BILLING SYTEM CANNOT REASONABLY ACCOMMODATE THE NGS'S BILLINGS FOR BASIC SERVICE.

~~(3)~~ (5) An NGDC-NGDC'S ~~may voluntarily purchase NGS accounts receivable at a discount~~ POR PROGRAM SHALL USE A DISCOUNT RATE DESIGNED to ~~recover~~ REFLECT THE NGDC'S ACTUAL UNCOLLECTIBLE RATE FOR SUPPLY SERVICE CUSTOMERS 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.~~

(6) THE POR DISCOUNT RATE SHALL ACCOUNT FOR RISK AND COST DIFFERENCES AMONG THE NGDC'S CUSTOMER CLASSES.

~~(5)~~ (7) POR programs must, AT A MINIMUM, include ~~only~~ receivables on residential and small business customer accounts.

~~(6)~~ (8) When an NGDC purchases accounts ~~receivable~~ RECEIVABLES from an NGS through a Commission-approved POR program and the accounts ~~receivable~~ RECEIVABLES are comprised only of charges for basic natural gas supply, the NGDC may terminate service to customers for failure to pay NGS GAS supply charges.

~~(7)~~ (9) 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)~~ (10) 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)~~ (11) 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, AN NDGC SHALL TRACK ITS POR PROGRAM COSTS AND NGS BASIC SERVICE COLLECTIONS EXPERIENCE. IF THE DISCOUNT RATE NO LONGER REASONABLY COMPENSATES THE NGDC FOR ITS POR PROGRAM COSTS AND COLLECTIONS EXPERIENCE, THE NGDC SHALL FILE AN UPDATE TO THE POR DISCOUNT RATE WITH THE COMMISSION.

~~(10)~~ (12) The NGDC shall track its POR program purchases and collections. AN NGS PARTICIPATING IN AN NGDC'S POR PROGRAM MAY SEPARATELY BILL A CUSTOMER FOR A SPECIFIC SERVICE OR PRODUCT IF THAT SERVICE OR PRODUCT DOES NOT MEET THE DEFINITION OF BASIC NATURAL GAS SUPPLY SERVICE.

(13) AN NGS PARTICIPATING IN AN NGDC'S POR PROGRAM SHALL ACCEPT ALL CUSTOMERS RESPONDING TO AN OFFER INCLUDED IN THE POR PROGRAM WITHOUT PERFORMING A CREDIT CHECK OR WITHOUT REQUIRING AN ADDITIONAL SECURITY DEPOSIT FROM THE CUSTOMER.

(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 NGS THE NGS'S BASIC 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 RECEIVABLES 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 BASIC SERVICE ~~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 NGS BASIC SERVICE 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.~~ *TRANSITION PLAN FOR EXISTING POR PROGRAMS.*

(1) IF THE NGDC HAS AN EXISTING COMMISSION-APPROVED POR PROGRAM THAT HAS A SPECIFIC LENGTH OF TERM, EXPRESSED IN YEARS OR MONTHS, THE COMMISSION-APPROVED POR PROGRAM MAY CONTINUE UNTIL THAT TERM EXPIRES.

(2) THE COMMISSION WILL APPLY THE POR PROGRAM REQUIREMENTS SET FORTH IN THIS SECTION IN ITS REVIEW OF ANY NEW OR UPDATED POR PROGRAM PROPOSED BY THE NGDC.

(3) IF THE NGDC HAS AN EXISTING COMMISSION-APPROVED POR PROGRAM WITH NO DEFINED TERM LENGTH, THE NGDC SHALL UPDATE ITS POR PROGRAM WITHIN 36 MONTHS OF THE EFFECTIVE DATE OF THESE REGULATIONS TO BE CONSISTENT WITH THIS SECTION.

§ 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 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.

(1) A release, assignment or transfer shall be made on a nondiscriminatory basis AS TO PRICE, RELIABILITY AND FUNCTIONALITY.

(2) A RELEASE OF AN NGDC'S PIPELINE AND STORAGE CAPACITY ASSETS SHALL FOLLOW THE CUSTOMERS FOR WHICH THE NGDC HAS PROCURED THE CAPACITY, SUBJECT ONLY TO THE NGDC'S VALID SYSTEM RELIABILITY AND FERC CONSTRAINTS.

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

(3) (4) 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.~~