

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.
Small Business Advocate

(717) 783-2525
(717) 783-2831 (FAX)

June 16, 2011

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HAND DELIVERED

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

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

Dear Secretary Chiavetta:

I am delivering for filing the original plus fifteen copies of the Comments on behalf of the Office of Small Business Advocate on the Proposed Rulemaking.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "William R. Lloyd, Jr." with a stylized flourish at the end.

William R. Lloyd, Jr.
Small Business Advocate
Attorney ID No. 16452

Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

I. Background

By Order entered March 27, 2009, the Pennsylvania Public Utility Commission (“Commission”) initiated a proposed rulemaking intended to promote the development of competition in the retail markets for natural gas supply.

The Office of Small Business Advocate (“OSBA”) and other interested parties filed comments on August 25, 2009.

By Order entered August 10, 2010, the Commission gave advance notice of its final rulemaking and invited comments on changes made in the regulations as originally proposed. On September 9, 2010, the OSBA and other interested parties filed comments in response to the August 10, 2010, Order.

By Order entered February 23, 2011, the Commission adopted the final rulemaking.

On or about May 18, 2011, the Commission withdrew the final rulemaking prior to consideration by the Independent Regulatory Review Commission (“IRRC”)

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By Secretarial Letter dated June 9, 2011, the Commission invited comments on changes in the final rulemaking to clarify issues raised by IRRC and some parties. The OSBA submits the following comments in response to the Secretarial Letter.

II. Specific Comments

“Natural Gas Costs”

In several locations, the changes include the use of the phrase “natural gas costs.” *See* the definition of “MFC-Merchant Function Charge” in proposed Section 62.222 and the use of the phrase in proposed Section 62.223(c). Using “natural gas costs” in those locations presumably was intended to provide consistency with the use of that phrase in portions of the rulemakings which are not being changed as part of the clarifications. *See, e.g.*, the definition of “PGC-Purchased gas cost” in proposed Section 62.222.

The final rulemaking does not include a definition of “natural gas costs.” Therefore, one possible inference is that the Commission intends the phrase “natural gas costs” to have the same definition as is given to it by Section 1307(h) of the Public Utility Code, 66 Pa. C.S. §1307(h). However, it is not clear what difference, if any, there is between “natural gas costs” as defined by Section 1307(h) and “PGC-Purchased gas cost” as defined in proposed Section 62.222.

Therefore, it is recommended that the Commission consider either including a definition of “natural gas costs” in proposed Section 62.222 or revising the final rulemaking to replace the phrase “natural gas costs” with “PGC.”

“Basic Service”

The Commission has inserted a definition of “Basic Service” in proposed Section 62.22. The Commission uses the term “basic service” at several locations in proposed Section 62.224, relating to Purchase of Receivables Programs.

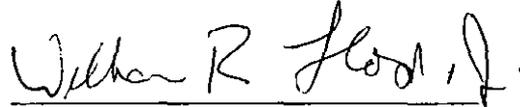
For purposes of the final rulemaking, “basic service” is to have the definition given to it in Section 62.72 of Title 52 of the Pennsylvania Code. The definition in Section 62.72 is as follows: “Basic services—Services necessary for the physical delivery of natural gas to a retail customer, consisting of natural gas distribution services and natural gas supply services.” As defined in Section 62.72, the phrase “basic services” includes service provided by the natural gas distribution company (“NGDC”) and not just service provided by the natural gas supplier (“NGS”).

Therefore, it is recommended that the Commission consider whether “basic services” as defined in Section 62.72 adequately describes the “basic service” to which the Commission is referring in proposed Section 62.224.

III. Conclusion

In view of the foregoing, the OSBA respectfully requests that the Commission revise the proposed clarification to the final rulemaking in accordance with the OSBA's comments.

Respectfully submitted,



William R. Lloyd, Jr.
Attorney ID No. 16452
Small Business Advocate

Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101
(717) 783-2525

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