

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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July 6, 2015

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Rulemaking to Amend and Add
Regulations To Title 52 of the
Pennsylvania Code, Sections 62.72,
62.75, and 62.81 Regarding Customer
Information Disclosure Requirements
for Natural Gas Suppliers Providing
Natural Gas Supply to Residential and
Small Business Customers
Docket No. L-2015-2465942

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments
in the above-referenced proceeding.

Respectfully submitted,

A handwritten signature in cursive script that reads "Amy E. Hirakis".

Amy Hirakis
Assistant Consumer Advocate
PA Attorney I.D. #310094

Attachment

cc: Office of Competitive Market Oversight
Law Bureau

209671

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend and Add Regulations :
To Title 52 of the Pennsylvania Code, :
Sections 62.72, 62.75, and 62.81 Regarding :
Customer Information Disclosure Requirements : Docket No. L-2015-2465942
For Natural Gas Suppliers Providing Natural :
Gas Supply to Residential and Small Business :
Customers :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: July 6, 2015

I. INTRODUCTION

On June 6, 2015 the Proposed Rulemaking Order of the Pennsylvania Public Utility Commission (Commission) was published in the *Pennsylvania Bulletin*. Rulemaking to Amend and Add Regulations To Title 52 of the Pennsylvania Code, Sections 62.72, 62.75, and 62.81 Regarding Customer Information Disclosure Requirements For Natural Gas Suppliers Providing Natural Gas Supply to Residential and Small Business Customers. Docket No. L-2015-2465942 (Order entered March 26, 2015)(Proposed Rulemaking Order). The Proposed Rulemaking Order proposes to amend 52 Pa. Code Chapter 62 in order to revise disclosure requirements for residential and small business customers. The goal of the proposed revisions is to make disclosure statements more understandable and useful to consumers. The Commission proposes several changes to 52 Pa. Code §62.75 and proposes adding Section 62.81 which provides for new notice requirements that specifically address notices relating to contract expirations and changes in terms for residential and small business customers. The Commission's intent is to make consumer notices more prominent and to provide NGS customers with important and timely information about their options upon the expiration or change in terms of their NGS service agreement.

The Office of Consumer Advocate (OCA) appreciates the opportunity to respond to the Commission's proposed rulemaking and fully supports the Commission in its endeavors to provide consumers with improved disclosure statements and timely information about their options upon the expiration or change in terms of their NGS service agreement. In these Comments the OCA makes specific recommendations intended to strengthen both consumer protections and the natural gas marketplace. The OCA shows its specific recommendations in each section and has also attached to these Comments a modified Annex A showing all of the

OCA's recommendations. The OCA has capitalized its proposed additions and used strike through to show the OCA's proposed deletions.

II. COMMENTS

It is the OCA's position that full and understandable disclosure of the terms and conditions of service is necessary to the proper operation of a retail market and for the protection of consumers. The Proposed Rulemaking Order seeks to amend Section 62.75 by adding several new requirements to the disclosures NGSs must provide consumers. Below, the OCA offers comments and recommendations for the Commission to consider. These comments reflect the OCA's experience in responding to consumer complaints with regard to both EGSs and NGSs. In the OCA's view, a set of regulations that requires the most complete, accurate and understandable disclosure that allows consumers to make a fully informed choice should be developed for NGSs.¹ As set forth in the OCA's Comments regarding the electric disclosure regulations², the OCA is of the view that the disclosure regulations must be revised to require that consumers are provided with full information regarding the product being marketed. Full, complete and accurate disclosure statements serve as an important consumer protection, as consumers rely on these disclosures to understand the product that they are selecting. It is important for consumers to trust that a supplier's disclosure statement contains any and all information that they should know before choosing such product. Without this trust, consumers

¹ The Natural Gas Choice and Competition Act requires that the Commission establish requirements, by order or regulation, that NGDCs and NGSs provide "accurate customer information to enable retail gas consumers to make informed choices regarding the purchase of all natural gas services offered by that provider." 66 Pa.C.S. § 2206(c). Such information is required to be provided to retail gas consumers "in an understandable format that enables retail gas customers to compare prices and services on a uniform basis". *Id.*

² The OCA submitted Comments in the Commission's rulemaking proceeding regarding disclosure requirements at Docket No. L-2014-2409385 (Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 and to Add Section 54.10 Regarding Contract Renewal Provisions). The OCA also submitted Comments to the Commission's Order in Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products at Docket No. M-2014-24061134 (March 4, 2014).

will not have the confidence to engage in the retail market for either natural gas or electric generation supply.

A. Proposed Section 62.75(c)(2)

1. A Price Limit Should Be Required To Be Stated In The Variable Pricing Statement At Section 62.75(c)(2)(ii).

The Commission proposes to amend Section 62.75(c)(2) to include additional disclosures to the variable pricing statement. The Commission proposes to require NGSs “clearly and conspicuously” state that there is no limit on price variability if there is not one, provide the price to be charged for the first billing month of service, provide a description of when the consumer will receive notifications of price changes, and make available the previous 24 months average monthly billed prices for a consumer’s rate class and NGDC service territory. The OCA submits that while the proposed additional subsections to Section 62.75(c)(2) are beneficial to consumers, Section 62.75(c)(2) may fall short of providing the necessary level of protection for consumers since the proposal allows a NGS to state that there is no limit for the pricing.³ In the OCA’s view, simply allowing a statement of no limit to the price does not allow the consumer to make an informed choice or to compare prices on an apples-to-apples basis. If a consumer is not informed of how high a price might go, the consumer cannot accurately assess the risk involved in making this choice. Consumers cannot be expected to assess the risk of the highly complex markets or their supplier’s purchasing strategy in those markets.

³ The OCA supports that the Commission has retained the subsections (a)-(g) in Section 62.75. It is the OCA’s view that these subsections provide important requirements for consumer disclosure statements that should be retained. The OCA submits that the Commission’s proposed additions to Section 62.75, accompanied by the OCA’s recommended changes, will further strengthen the consumer notice requirements and better assist consumers with making informed choices when participating in the natural gas retail market.

The OCA recommends that the Commission should require that a ceiling price be stated for the maximum price or change that can occur under the variable price plan. The OCA recommends the following approach to achieve this goal:

(2) The variable pricing statement, ~~if applicable~~, shall include:

(i) Conditions of variability (state on what basis prices will vary) including the NGS's specific prescribed variable pricing methodology.

(ii) The starting price and the ceiling price, ~~if the ceiling price is applicable~~.

These changes will ensure that consumers are provided more complete information upon which to make a choice.

The Commission states that it does not believe that it can require NGSs to state a ceiling price because the Natural Gas Choice and Competition Act does not provide it with the authority to regulate the competitive gas supply rates. Proposed Rulemaking Order at 11. The OCA submits that a requirement that NGSs provide a ceiling price in no way regulates price. The NGS would dictate the ceiling price, not the Commission. The ceiling price merely serves as notice to the consumer of how high the price could go, and offer a bit of protection to the consumer since the price for that particular contract could not exceed the ceiling price.

2. Changes to Proposed Subsections (iii) Are Needed If The Commission's Approach Is Followed.

If the Commission allows variable price products to continue to be marketed without specifying a ceiling price, the OCA submits that the regulations should be amended to require that the variable pricing statement include a specific statement that clearly states that there is no limit of how much the price may increase, and that the price can fluctuate each billing period. The OCA recommends that the Commission's proposed § 62.75(c)(2)(iii) be modified to

specifically provide the statement that all NGSs would be required to provide consumers. The OCA recommends the following modification to the Commission's proposal:

(2) The variable pricing statement, ~~if applicable~~, must include:

(iii) A STATEMENT BY ~~NGS THAT shall provide a clear and conspicuous statement that~~ STATES THE FOLLOWING: "there is not a limit on how much the price may change from one billing cycle to the next OR ON HOW HIGH THE PRICE MAY GO."

In the OCA's view, this modification will better ensure that information about these variable price plans is communicated to consumers in a more understandable format. Although this proposal will not offer the same protection to consumers as would requiring NGSs to provide a ceiling price, this additional disclosure will better ensure that residential consumers can make a more informed decision.

3. Proposed Section 62.75(c)(2)(iv)

The Commission proposes to add Section 62.75(c)(2)(iv) which would require NGSs to disclose the price to be charged for the first billing month. The OCA agrees with this proposed change but notes that it may be insufficient in this marketplace where introductory rates are common. If the price is not clearly and expressly disclosed as an introductory rate when it is one, consumers will be misled. The OCA recommends that the NGS also be required to specify the guaranteed length of time that the starting price will be in effect. For instance, if the starting price is an introductory price that will last for two months before changing to a variable rate, the variable pricing statement should clearly state that the starting price is only guaranteed for the first two billing periods. Providing the starting price without specifying the time period that it will apply could lead to consumer confusion as to whether the product has a fixed or variable price. Also, even if there is no introductory price, it must still be stated that the price may change after the first billing month.

To implement these recommendations, the OCA proposes the following:

(iv) The price to be charged, per billing unit, for the first billing month of service AND A STATEMENT THAT THE PRICE COULD CHANGE IN THE SECOND MONTH. IF THE PRICE IS INTRODUCTORY, A STATEMENT THAT THE PRICE IS AN INTRODUCTORY PRICE, THE LENGTH OF THE INTRODUCTORY PERIOD AND THE PRICE FOR THE FIRST MONTH AFTER THE INTRODUCTORY PERIOD.

In the OCA's view, these changes are necessary to more clearly communicate to customers the nature of the price offer.

B. Proposed Section 62.75(c)(2)(v)

The Commission further proposes the addition of 62.75(c)(2)(v) which would require a NGS to provide a description of when the consumers will receive notification of price changes. The OCA submits that Section 62.75(c)(2)(v) should provide that this notice will be provided before the new price is charged to the consumer. Without information about what price is being charged, the consumer cannot make informed decisions about their energy use or about whether a new price plan or supplier is needed. Consumers need to know this information before they use the natural gas or continue on the plan. The proposed regulation is unclear in this regard. The OCA submits the following changes to Section 62.75(c)(2)(v) for the Commission's consideration:

(v) A STATEMENT ~~description~~ of when the customer will receive notification of price changes BEFORE SUCH PRICE CHANGE GOES INTO EFFECT.

C. Proposed Section 62.75(c)(2)(vi)-(vii)

The Commission proposes the addition of sections 62.75(c)(2)(vi)-(vii) requiring specific information for contracts with variable pricing. Proposed Section 62.75(c)(2)(vi) requires NGSs who offer variable price products to provide a telephone number and internet address where customers may obtain the previous 24 months average monthly billed prices for the customers

rate class and service territory. It also requires that an EGS which has not provided service for a customer rate class in the service territory for 24 months provide the average monthly billed price to date.

The OCA supports the proposed addition of Section 62.75(c)(2)(vi). The proposed regulation could be improved, however, with additional clarification to ensure that the pricing information is not misleading or inadequate. The Commission must ensure that a common approved approach is being used to develop the average price so that proper comparisons can be made. More importantly, because the use of averages can mask the problem, and because the use of 24 month data may not be representative of the risk, NGSs should also be required to disclose the highest and lowest price that has been charged for the customer's rate class and service territory to ensure that customers have more complete information. In the OCA's view, the time frame to be placed on this proposal regarding the highest and lowest price should be no less than 36 months to 60 months to properly reflect pricing changes over a reasonable period of time.

The OCA proposes the following changes to proposed Section 62.75(c)(2)(vi) to address the issues identified:

(vi) a telephone number and Internet address at which a customer may obtain the previous 24 months' average monthly billed prices for that customer's rate class and NGDC service territory, AND THE HIGHEST AND LOWEST PRICE BILLED FOR THAT CUSTOMER'S RATE CLASS AND NGDC SERVICE TERRITORY FOR THE PREVIOUS 60 MONTHS. If an NGS has not been providing service in a rate class and NGDC service territory for 24 months, the NGS shall provide the average monthly billed prices for the months available to date. IF THE NGS HAS NOT BEEN PROVIDING SERVICE IN A CUSTOMER RATE CLASS AND SERVICE TERRITORY FOR 60 MONTHS, THE NGS SHALL PROVIDE THE CUSTOMER THE HIGHEST AND LOWEST PRICES AS SET FORTH BY THE COMMISSION FOR SUCH PURPOSE.

The OCA submits that these changes are necessary to better ensure that customers have information that will help them to make a better informed choice about this product.

The Commission also proposes the addition of 62.75(c)(2)(vii) which would require NGSs to provide a plain language statement that historical pricing is not indicative of present or future pricing. The OCA submits that it is important to convey this information to consumers, and supports this specific proposal.

D. Section 62.75(c)(7)

The Commission's proposed change to 62.75(c)(7) removes the requirement that the NGS must cancel the agreement if the consumer moves from one location to another. The Commission states that this change is proposed to avoid this regulation impeding the consideration and implementation of seamless moves, which will be addressed in a separate proceeding. Proposed Rulemaking Order at 23. The OCA will provide comments on seamless move in the natural gas industry in the separate proceeding but agrees with removing this provision here.

E. Section 62.75(c)(8)

The Commission's proposed change to 62.75(c)(8) removes the sentence that allows for automatic renewal at the same terms and conditions so long as the new agreement is month to month. The OCA proposes that Section 62.75(c)(8) require that renewal provisions be provided for all agreements so that the consumer understands what will occur at the end of the agreement. As such, the OCA proposes the following change to Section 62.75(c)(8):

(8) The renewal provision, ~~if applicable~~. [Automatic renewal is allowed at the same terms and conditions as long as the new agreement is month-to-month.]

F. Proposed Section 62.75(c)(9)

The Commission's proposed changes in 62.75(c)(9) would require NGSs to include an explanation of the limits of price variability. The OCA agrees with this addition. The OCA recommends, however, that the Commission specify the type size and that such type size should be no less than 12 point font. In addition, there is no guidance as to what constitutes an adequate "explanation" of the limits. A reference to what constitutes and adequate explanation may be necessary. The OCA proposes at least the following modification on the font size:

(9) An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service BUT NO LESS THAN 12 POINT. Penalties shall be disclosed in actual dollars or a specific method for determining the actual dollars shall be disclosed.

G. Proposed Section 62.75(c)(11)

The Commission's proposed change in Section 62.75(c)(11) would require that NGSs direct consumers to the Commission's PA Gas Switch website for natural gas shopping information. NGSs are currently required to direct consumers to the Commission if the consumer is not satisfied after discussing the terms of service with the NGS. The OCA submits that the Commission's PA Gas Switch website contains valuable information that could assist consumers with shopping for natural gas supply. The OCA submits, however, that NGSs should continue to provide the Commission's telephone number to consumers as well. The Commission's proposed change to require that NGSs only direct consumers to a webpage assumes that all consumers have access to the internet. This is not the case. As such, the OCA recommends that the proposed Section 62.75(c)(11) be amended to require that NGSs direct consumers to the PA Gas Switch website in addition to providing the Commission's telephone number. The OCA also recommends referring consumers to the OCA's website where consumers can access the OCA's natural gas shopping guide. The OCA recommends the following change to proposed Section 62.75(c)(11):

(11) A statement providing that information about shopping for a gas supplier is available at www.PaGasSwitch.com AND WWW.OCA.STATE.PA.US or other successor media platformS as determined by the Commission AND WHICH {directs a customer to the Commission if the customer is not satisfied after discussing the terms of service contained in the disclosure statement with the NGS.}

The OCA submits that the OCA's proposed change ensures that the consumer will have the ability to access the information and assistance he or she seeks.

H. Proposed Section 62.75(g)

The Commission's proposed changes to 62.75(g) would eliminate 62.75(g)(1) and (g)(2) and require NGSs to modify the mandatory disclaimer language. The new disclaimer language states that consumers will receive two separate notices when the NGS is either changing the terms of service or the consumer is approaching the end of their contract, and that this notice will explain the consumer's options going forward. Proposed Section 62.75(g) removes the requirement that the NGSs must provide notice 90 days and 60 days in advance, and is replaced by new notice requirements at proposed Section 62.81. Proposed Section 62.81 provides that NGS must provide consumers with two separate notices, the first 60 to 45 days in advance of the expiration date or the effective date for the proposed change in terms, and the second notice 30 days in advance. The OCA recommends that the proposed Section 62.75(g) should include the time frame that consumers will receive the notices. The OCA also notes that the phrase "whenever we propose to change the terms of service in any type of contract" could be misleading to consumers, as it suggests that a NGS has the ability to unilaterally change the terms of a contract. As such, the OCA recommends the following change to proposed Section 62.75(g):

(g) Disclosure statements shall include the following customer notification: "If you have a fixed duration contract approaching the expiration date, or whenever we propose to change the terms of service ~~in any type of contract~~, you will receive two separate written notifications, THE FIRST APPROXIMATLY 60 TO 45 DAYS IN ADVANCE AND THE SECOND 30 DAYS IN ADVANCE OF ~~that~~

precede either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward.”

H. Proposed Section 62.75 (i) and the NGS Contract Summary

Proposed Section 62.75(i) requires a separate NGS Contract Summary be provided with the disclosure statement. A Contract Summary similar to that proposed by the Commission as provided as Attachment A to the Proposed Rulemaking Order could prove beneficial as it can quickly present key terms of the plan to the customer. The OCA submits that additional information should be included to aid consumers with knowing the important terms of their contracts, and offers the following changes to the Commission’s proposed contract summary:

<p>Natural Gas Supplier Information</p>	<p><i>Name, telephone number, website, etc.</i></p> <p><i>Plain language statement that NGS is responsible for gas commodity charges, AND THAT THE NGS CHARGES WILL REPLACE THE PTC IDENTIFIED ON THE CUSTOMER’S BILL OR THE NGS CHARGES OF THE CUSTOMER’S PRIOR SUPPLIER.</i></p>
<p>Natural Gas Price Structure</p>	<p><i>Fixed or variable. If variable, based on what? If variable, how often is the rate expected to vary? If variable, give any applicable ranges/ceilings. If no ranges/ceilings. If no ranges/ceiling, a plain language statement indicating this fact. If variable, describe when the customer will receive notification of price changes in relation to time of month, final monthly meter read, billing cycle or when the price takes effect.</i></p> <p><i>A STATEMENT OF THE HIGHEST AND LOWEST PRICE CHARGED BY THE NGS TO</i></p>

	<i>THIS CUSTOMER CLASS SERVED BY THIS NGDC OVER THE PAST 60 MONTHS.</i>
Natural Gas Supply Price	<i>\$/unit or ¢/unit. If variable rate, the first billing cycle's rate. Any introductory rate with duration of contract MUST BE SO IDENTIFIED AND STATE THE RATE THAT WILL BE IN EFFECT FOLLOWING ANY INTRODUCTORY OR PROMOTIONAL RATE. IF THE PRICE HAS NOT BEEN SET FOR THE FIRST MONTH AFTER THE INTRODUCTORY PERIOD, A STATEMENT ON HOW THE RATE WILL BE ESTABLISHED, WHETHER OR NOT IT IS A VARIABLE RATE, WHEN THE RATE WILL BE PROVIDED TO THE CONSUMER AND STATE THAT THE RATE MAY BE HIGHER THAN THE INTRODUCTORY RATE.</i>
Statement Regarding Savings	<i>Plain language that the supply price may not always provide savings to the customer- COMPARED TO THE PTC.</i>
Deposit Requirements	<i>Any deposit requirements necessary for a customer and any terms associated with that deposit, in plain language.</i>
Incentives	<i>Any bonuses, discounts, cashback, etc. offers and any associated terms, in plain language-, AND ANY CRITERIA FOR OBTAINING ANY INCENTIVE OR BONUS.</i>
Contract Start Date	<i>Plain language regarding start of NGS service.</i>
Contract Term/Length	<i>In months, billing cycles, etc.</i>
Cancellation/Early Termination Fees	<i>Yes or no. If yes, describe the amount of the fee and how to avoid that fee, if</i>

	<i>possible.</i>
Renewal Terms	<i>Treatment of customer at end of contract. Timing of notices. No cancellation/early termination fees. In plain language.</i>

I. Proposed Section 62.75 (j)

Proposed Section 62.75(j) requires that NGSs inform consumers if the contract is assignable. The OCA agrees that a NGS should be required to inform the consumer that the contract is assignable. The OCA submits that the NGS should be required to disclose this information at the time the consumer enters into the agreement and also be required to provide the consumer with written notice if the contract is assigned to another supplier. The notice informing consumers that their contract has been assigned should contain the name and contact information of the new supplier, and state when the assignment will occur. The OCA recommends that proposed Section 62.75(i) be modified as follows:

(j) If the contract is assignable, the NGS shall inform the customer accordingly AT THE TIME THE PARTIES ENTER INTO THE CONTRACT. THE NGS SHALL ALSO PROVIDE A WRITTEN NOTICE TO THE CONSUMER IF THE CONTRACT IS ASSIGNED THAT CONTAINS THE NAME AND CONTACT INFORMATION FOR THE NEW SUPPLIER AND WHEN THE ASSIGNMENT WILL OCCUR.

J. Proposed Section 62.81. Notice of contract expiration or change in terms for residential and small business customers.

The Commission proposes the creation of 52 Pa. Code § 62.81 which would govern the types and timing of notification consumers receive at the end of their fixed duration contract or when the terms of service change. The OCA supports the Commission's proposed regulations, particularly the requirement that consumers be provided with 30 days advanced notice of a price change if a NGS placing the customer on a month-to-month contract. Proposed Section 62.81 mirrors Section 54.10 in the electric regulations. In the Final Rulemaking Order to the electric

regulations the Commission clarified that if a consumer does not respond to a notice, the consumer may be placed on a month-to-month price but that price cannot be changes without 30 days advanced notice to the consumer. See Final-Omitted Rulemaking Order: Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms. Docket No. L-2014-2409385 (Order entered Apr. 3, 2014) (Order at 33-36). Specifically, the Commission stated:

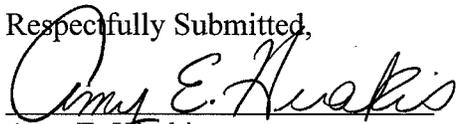
[T]he Commission maintains its position that 30 days' notice of any pricing changes should be provided to those customers whose fixed-term contract has expired or has had a change in terms and are now enrolled in a variable-priced month to month contract. Because many of the customers enrolled in fixed-term contracts have affirmatively chosen a fixed rate, these customers may need more information regarding the potential variability in rates they may experience upon contract expiration or when the terms of the contract are changed.

Order at 35. The OCA requests that the Commission provide the same clarification here so that there is no misunderstanding.

III. CONCLUSION

The OCA welcomes the Commission's efforts to improve consumer disclosures relating to the natural gas retail market. The OCA looks forward to continuing to work with the Commission and the stakeholders to develop a natural gas retail choice market where consumers are fully informed, educated and fairly treated so that they can make informed and sound choices in the best interests of themselves, their families and their businesses.

Respectfully Submitted,



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DATED: July 6, 2015

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ANNEX A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 62: NATURAL GAS CHOICE
Subchapter C. CUSTOMER INFORMATION DISCLOSURE

§ 62.72. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

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.

Billed prices—The disclosed NGS prices on the customer bill.

Billing month—A period of not less than 26 days and not more than 35 days.

* * * * *

§ 62.75. Disclosure statement for residential and small business customers.

(a) The disclosure statement prices shall reflect the marketed prices and the billed prices.

(b) The NGS shall provide the customer a written disclosure statement containing the terms of service at no charge whenever:

(1) The customer requests that an NGS initiate service.

(2) The NGS proposes to change the terms of service.

(c) The disclosure statement's terms of service shall be disclosed, including the following terms and conditions, if applicable:

(1) Commodity charges shall be disclosed according to the actual prices and be presented in the standard pricing unit of the NGDC or other Commission-approved standard pricing unit. Commodity charges shall include estimated total state taxes. Commodity charges exclude State Sales Tax and county tax.

(2) The variable pricing statement (~~if applicable~~) shall include:

(i) Conditions of variability (state on what basis prices will vary) including the NGS's specific prescribed variable pricing methodology.

(ii) The starting price and the ceiling price, ~~if the ceiling price is applicable~~.

(iii) A STATEMENT BY ~~If there is not a limit on price variability,~~ the NGDC NGS THAT ~~shall provide a clear and conspicuous statement that~~ STATES THE FOLLOWING: “there is not a limit on how much the price may change from one billing cycle to the next OR ON HOW HIGH THE PRICE MAY GO.”

(iv) The price to be charged, per billing unit, for the first billing month of service AND A STATEMENT THAT THE PRICE COULD CHANGE IN THE SECOND MONTH. IF THE PRICE IS INTRODUCTORY, A STATEMENT THAT THE PRICE IS AN INTRODUCTORY PRICE, THE LENGTH OF THE INTRODUCTORY PERIOD AND THE PRICE FOR THE FIRST MONTH AFTER THE INTRODUCTORY PERIOD.

(v) A STATEMENT ~~description~~ of when the customer will receive notification of price changes BEFORE SUCH PRICE CHANGE GOES INTO EFFECT.

(vi) A telephone number and Internet address at which a customer may obtain the previous 24 months’ average monthly billed prices for that customer’s rate class and NGDC service territory, AND THE HIGHEST AND LOWEST PRICE BILLED FOR THAT CUSTOMER’S RATE CLASS AND NGDC SERVICE TERRITORY FOR THE PREVIOUS 60 MONTHS. If an NGS has not been providing service in a rate class and NGDC service territory for 24 months, the NGS shall provide the average monthly billed prices for the months available to date. IF THE NGS HAS NOT BEEN PROVIDING SERVICE IN A CUSTOMER RATE CLASS AND SERVICE TERRITORY FOR 60 MONTHS, THE NGS SHALL PROVIDE THE CUSTOMER THE HIGHEST AND LOWEST PRICES AS SET FORTH BY THE COMMISSION FOR SUCH PURPOSE.

(vii) In plain language, a statement that historical pricing is not indicative of present or future pricing.

(3) An itemization of basic and nonbasic charges distinctly separate and clearly labeled.

(4) The length of the agreement, which includes:

(i) The starting date.

(ii) The expiration date, if applicable.

(5) An explanation of sign-up bonuses, add-ons, limited time offers, other sales promotions and exclusions, if applicable.

(6) An explanation of prices, terms and conditions for special services, if applicable.

(7) The cancellation provisions, if applicable.

(8) The renewal provisions, ~~if applicable~~

(9) An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service BUT NO

LESS THAN 12 POINT. Penalties shall be disclosed in actual dollars or a specific method for determining the actual dollars shall be disclosed.

(10) Customer contact information that includes the name of the [NGDC and] NGS, and the NGS's address, telephone number, Commission license number and Internet address, if available. The NGS's information shall appear first and be prominent.

(11) A statement providing that information about shopping for a gas supplier is available at www.PaGasSwitch.com AND WWW.OCA.STATE.PA.US or other successor media platformS as determined by the Commission AND {directs a customer to the Commission if the customer is not satisfied after discussing the terms of service contained in the disclosure statement with the NGS.}

(d) Customers shall be provided a 3-day right of rescission period following receipt of the disclosure statement from the NGS.

(1) The 3-day right of rescission is 3 business days.

(2) The 3-day right of rescission begins when the customer receives the disclosure statement from the NGS.

(3) The customer may cancel in writing, orally or electronically, if available, by contacting the NGS.

(4) Waivers of the 3-day right of rescission are not permitted.

(e) The definition for commodity charges is required on natural gas disclosure statements and shall be defined in accordance with § 62.80 (relating to common natural gas competition terms). Definitions for other basic charges, if applicable, are required. Definitions for each of the nonbasic services, if applicable, are required. The definition section of the bill shall be distinctly separate.

(f) The NGS shall include in the customer's disclosure statement the following statements which may appear together in a paragraph:

(1) "Commodity prices and charges are set by the natural gas supplier you have chosen."

(2) "The Public Utility Commission regulates distribution prices and services."

(g) Disclosure statements shall include the following customer notification:

"If you have a fixed duration contract approaching the expiration date, or whenever we propose to change the terms of service ~~in any type of contract~~, you will receive two separate written notifications, THE FIRST APPROXIMATELY 60 TO 45 DAYS IN ADVANCE AND THE SECOND 30 DAYS IN ADVANCE OF ~~that precede~~ either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward."

(h) If the supplier of last resort changes, the new supplier of last resort shall notify customers of that change, and shall provide customers with the name, address, telephone number and Internet address, if available.

(i) The NGS shall provide, with the disclosure statement, a separate NGS contract summary in a format provided by the Commission.

(j) If the contract is assignable, the NGS shall inform the customer accordingly AT THE TIME THE PARTIES ENTER INTO THE CONTRACT. THE NGS SHALL PROVIDE A WRITTEN NOTICE TO THE CONSUMER IF THE CONTRACT IS ASSIGNED THAT

CONTAINS THE NAME AND CONTACT INFORMATION FOR THE NEW SUPPLIER AND WHEN THE ASSIGNMENT WILL OCCUR.

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§ 62.81. Notice of contract expiration or change in terms for residential and small business customers.

An NGS shall provide the following notices to customers prior to the expiration of a fixed duration contract or prior to a change in contract terms:

(a) An initial notice shall be provided to each affected customer 45 to 60 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. For customers who have elected to receive electronic communications from the NGS, the notice shall be transmitted in the manner chosen by the customer. The initial notice must include:

- (1) A general description of the proposed change in terms of service.
- (2) The date a change shall be effective or when the fixed duration contract is to expire.
- (3) An explanation of why a change in contract terms is necessary.
- (4) A statement indicating when a follow-up options notice shall be issued with details regarding the proposed change.
- (5) A statement explaining that the options notice must discuss the customer's options to the proposed change in terms of service or expiring fixed duration contract.
- (6) A statement indicating whether the existing fixed duration contract has a cancellation fee, and an explanation of the fee amount and how to avoid the fee, if possible, including notice of the date when the customer can choose a different product from the customer's existing NGS, choose an alternative NGS, or return to the supplier of last resort.

(b) An options notice shall be provided by first class mail to each affected customer at least 30 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. The options notice must include:

- (1) A statement advising the customer of the specific changes being proposed by the NGS and informing the customer of how to exercise the customer's options, including the customer's ability to accept the proposed changes, to choose another product offering from the customer's existing NGS, to select another NGS, or to return to the supplier of last resort.
- (2) Information regarding the new price or renewal price, including the price to be charged for the first billing month of commodity service:
 - (i) If a customer fails to respond to the options notice and is converted to a month-to-month contract, the NGS shall provide a disclosure statement under § 62.75 (relating to disclosure statement for residential and small business customers).

(A) Notice of a subsequent change in price shall be provided to the customer at least 30 days prior to the new price being charged.

(B) For customers who have elected to receive electronic communications from the NGS, notice of the change in pricing shall be transmitted in the manner chosen by the customer. For all other customers, notice shall be provided by first class mail.

(ii) If a customer fails to respond to the options notice and is entered into a new fixed duration contract, the NGS shall provide the price to be charged and the length of the contract.

(iii) The telephone numbers and Internet addresses, as applicable, for the Office of Consumer Advocate, the Commission, and PaGasSwitch.com.

(iv) Language clearly visible on the front of the envelope used to provide the options notice stating that it contains important information regarding the expiration or changes in terms of the customer's natural gas supply contract.

(c) When a customer fails to respond to the NOTICES initial notice and the options notice, the following apply:

(1) A fixed duration contract shall be converted to one of the following:

(i) A month-to-month contract, either at the same terms and conditions or at revised terms and conditions, as long as the contract does not contain cancellation fees.

(ii) Another fixed duration contract, as long as the new contract includes a customer-initiated cancellation provision that allows the customer to cancel at any time, for any reason, and does not contain cancellation fees.

(2) The converted contracts shall remain in place until the customer chooses one of the following options:

(i) Select another product offering from the existing NGS.

(ii) Enroll with another NGS.

(iii) Return to the supplier of last resort.