

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

FAX (717) 783-7152  
consumer@paoca.org

June 5, 2017

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

Re: Rulemaking to Amend the Provisions of 52 Pa.  
Code, Chapter 59 Regulations Regarding  
Standards for Changing a Customer's Natural  
Gas Supplier  
Docket No. L-2016-2577413

Dear Secretary Chiavetta:

Attached for electronic filing are the Additional Comments of the Office of Consumer Advocate in the above-referenced proceeding.

If you have any questions, please feel free to contact me.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Lauren M. Burge".

Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. # 311570

Attachment

cc: Daniel Mumford, Office of Competitive Market Oversight  
Matthew Hrivnak, Bureau of Consumer Services  
Kriss Brown, Law Bureau

\*234292

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking to Amend the Provisions of :  
52 Pa. Code, Chapter 59 Regulations : Docket No. L-2016-2577413  
Regarding Standards for Changing a :  
Customer's Natural Gas Supplier :

---

ADDITIONAL COMMENTS OF THE  
OFFICE OF CONSUMER ADVOCATE

---

Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. #311570  
E-Mail: [LBurge@paoca.org](mailto:LBurge@paoca.org)

Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. #61138  
E-Mail: [BSheridan@paoca.org](mailto:BSheridan@paoca.org)

Darryl Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 93682  
E-Mail: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

Dated: June 5, 2017

## I. INTRODUCTION

On January 7, 2017, the Advance Notice of Proposed Rulemaking Order of the Pennsylvania Public Utility Commission (Commission) was published in the *Pennsylvania Bulletin*. 47 Pa.B. 19, Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 59 Regulations Regarding Standards for Changing a Customer's Natural Gas Supplier, Docket No. L-2016-2577413 (Order entered December 22, 2016) (Proposed Rulemaking Order). The Proposed Rulemaking Order seeks to amend existing regulations at 52 Pa. Code Chapter 59 to direct Natural Gas Distribution Companies (NGDCs) to accelerate switching timeframes in a manner that would permit Pennsylvania retail natural gas customers to switch natural gas suppliers (NGSs) within three business days. These changes are also intended to make the natural gas switching regulations consistent with analogous regulations related to switching electric generation suppliers. The OCA filed Comments regarding the Proposed Rulemaking Order on February 21, 2017.

On April 20, 2017, the Commission issued an Order requesting additional comments on a number of specific issues that were raised by parties in the February 21, 2017 comments. Rulemaking to Amend the Provisions of 52 Pa. Code Chapter 56 Regulations Regarding Standards for Changing a Customer's Natural Gas Supplier; Request for Additional Comments, Docket No. L-2016-2577413 (Order entered April 20, 2017) (Request for Additional Comments). The Request for Additional Comments was published in the *Pennsylvania Bulletin* on May 6, 2017. 47 Pa.B. 2614.

The OCA welcomes this opportunity to provide additional comments. As discussed in the OCA's Comments, the OCA generally supports accelerated switching and the Commission's efforts to make the electric and natural gas switching regulations as easy as possible for

customers to understand. The OCA provides the additional comments below which seek to ensure that customers are protected from slamming while also encouraging shopping and keeping compliance costs low for companies.

## II. COMMENTS

### A. Backdating NGS Switches

The Commission is seeking comment on a proposal that NGDCs have the option to affect a switch retroactively to the last meter read used for billing, as an alternative to off-cycle switching. See Request for Additional Comments at 3; NFG Comments at 9-10. The OCA opposes this proposal because it may result in customers paying charges that they did not authorize.

If NGSs are permitted to implement a switch retroactively to the last meter read date, this would in effect allow the NGS to charge the customer the new supplier price for a number of days prior to the switch actually occurring. For example, if a customer switches suppliers near the end of a billing cycle but the switch is backdated to the previous meter read, this would result in the customer being required to pay NGS charges for nearly the entire billing cycle despite the fact that the customer had not authorized the switch during that time period. This would eliminate the customer's supplier of last resort (SOLR) price or other NGS price that was in effect at the time of the last meter reading. Similarly, backdating switches would also allow the customer to switch from NGS service back to SOLR, resulting in the NGS being deprived of revenue it would have earned up to the mid-cycle switch date.<sup>1</sup> The OCA submits that this practice would be difficult to disclose to customers, could create significant billing disputes, and would likely leave customers, suppliers, and distribution companies unsatisfied with the results.

The OCA submits that if an NGDC cannot comply with accelerated switching requirements at a reasonable cost, then the Commission should either: (1) work to develop a pro rata billing approach; (2) maintain the current on-cycle switching regulation; or (3) allow the NGDC to request a waiver to be exempted from the three-day switching requirement. This

---

<sup>1</sup> The OCA would also question whether such a process could trigger an unexpected early cancellation fee.

approach would be more fair to customers because it would not result in them paying unauthorized charges, and would avoid the confusion and billing disputes that would likely be created by the backdating proposal.

B. Limitations on Off-Cycle Switching

The Commission is also seeking additional comments on whether there should be limitations on the number of off-cycle switches that a customer may make within a single billing cycle. Request for Additional Comments at 3. The analogous regulations for EGS switching in the electric industry allow for unlimited switching within a billing cycle, but some parties have proposed that for NGS switching, customers should be limited to one off-cycle switch per billing period. See Peoples Comments at 5-6; NFG Comments at 6.

The OCA believes that if NGDCs will incur significant costs due to multiple switches in a cycle, then it would be reasonable to limit customers to one off-cycle switch per billing period. The OCA is concerned, however, that this could be read to prevent the customer from returning to SOLR service if they have already switched their NGS during the billing cycle. The regulation should be clear that the customer is permitted one NGS switch per cycle in addition to the ability to switch back to SOLR service during the same billing cycle.

C. The NGDC Acting as a Capacity “Clearinghouse”

The OCA has no comments on this issue at this time.

D. Diversity of NGDC Systems

Due to the diversity of NGDC distribution systems, billing systems and metering technology, the Commission is seeking additional comment on whether NGDCs should be subject to differing regulations and switching timeframes based on their individual capabilities. Request for Additional Comments at 4. The OCA supports the use of varying timelines and

applicable requirements based on an individual NGDC's capabilities and costs that NGDCs would incur to implement switching regulations. If it is too costly to obtain this uniformity at this time, the OCA does not recommend pursuing such uniformity.

The Commission expressed concern that a varying regulations and timeframes could be confusing for both consumers and suppliers. While the OCA appreciates the Commission's concern that this may cause confusion among customers, customer education can be targeted so that customers are only educated about the procedures that apply to their particular NGDC. For suppliers, it is understandable that NGSs would desire uniform rules applied to NGDCs across the Commonwealth. The primary issue, however, is that applying the same standards to NGDCs with widely varied capabilities would likely be very costly for some NGDCs to implement, and thus would lead to higher costs for consumers. NGSs are sophisticated companies that will be able to understand variation among regulations and timeframes that apply to NGDCs and handle those differences appropriately. The OCA supports varying requirements based on NGDC capabilities if it would be too costly to bring all NGDCs to the same level on a short timeline.

E. Data Elements in Section 59.93

Currently, the Commission's regulations require that when an NGS transmits a customer enrollment to the NGDC, the NGDC is required to verify the accuracy of the information using at least two data elements, such as name and account number, address and account number, etc. 52 Pa. Code § 59.93(1). The Proposed Rulemaking Order, however, did not require two data elements. The Commission is seeking additional comment on whether the NGDC can rely on only one data element in verifying the switch. Request for Additional Comments at 4-5.

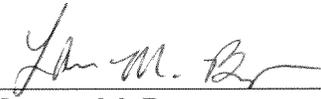
The OCA submits that the Commission should retain the two data element requirement, but allow NGDCs to seek a waiver of this requirement in certain situations. NGDCs have been

applying the two data element requirement for some time and it has helped to provide a layer of protection to prevent slamming. This requirement should remain in place as the general requirement for NGDCs. Some companies, such as those that provide both electric and natural gas service, could be permitted to seek a waiver of this requirement if the company can show that it has adequate procedures in place to protect customers using one data element and that compliance with the two data element requirement would be costly for the company to implement. This waiver could help streamline the process for a customer with a combined bill that is switching to both electric and natural gas service with the same supplier. Such a waiver may be granted on a case-by-case basis, but otherwise the two data element requirement should remain in place.

### III. CONCLUSION

The OCA thanks the Commission for its efforts in improving the customer experience and maintaining consumer protections in Pennsylvania's retail natural gas market. The OCA respectfully requests that the Commission consider the OCA's additional comments as the Commission reaches its conclusions on this matter. The OCA looks forward to continuing to work with all stakeholders to accomplish these goals.

Respectfully Submitted,



---

Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. #311570  
E-Mail: [LBurge@paoca.org](mailto:LBurge@paoca.org)

Barrett C. Sheridan  
Assistant Consumer Advocate  
PA Attorney I.D. #61138  
E-Mail: [BSheridan@paoca.org](mailto:BSheridan@paoca.org)

Darryl Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 93682  
E-Mail: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

Dated: June 5, 2017

232754