

COMMONWEALTH OF PENNSYLVANIA



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October 31, 2017

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

Re: Proposed Rulemaking: Natural Gas Distribution
Company Business Practices; 52 Pa. Code §§
62.225
Docket No. L-2017-2619223

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 blue ink, appearing to read 'Aron J. Beatty', written over a horizontal line.

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Nathan Paul, Bureau of Audits (email)
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking: Natural Gas :
Distribution Company Business Practices; : Docket No. L-2017-2619223
52 Pa. Code §§ 62.225 :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	COMMENTS	2
	A. Section 62.225(a)(3): Uniform Capacity Cost Recovery.....	2
	B. Section 62.225(a)(2): Capacity Assignment From All Assets.....	2
	C. Section 62.225(5): Imbalance Trading.	3
	D. Section 62.225(6): Non-Peak Penalties.	5
III.	CONCLUSION.....	7

I. INTRODUCTION

On August 31, 2017, the Pennsylvania Public Utility Commission (PUC or Commission) entered an Advance Notice of Proposed Rulemaking Order (ANOPR) issuing for comment proposed regulations that address the treatment of capacity among Natural Gas Distribution Companies (NGDCs) and Natural Gas Suppliers (NGSs). In the ANOPR, the Commission stated that its SEARCH proceeding, and the Natural Gas Retail Market Investigation, identified areas of concern that could be addressed to improve the retail gas market. ANOPR at 1-7. The Commission recognized the participation of numerous stakeholders, including the Office of Consumer Advocate (OCA). ANOPR at 3. The OCA appreciates this opportunity to further provide Comment on these important issues affecting Pennsylvania's natural gas consumers.

As the Commission considers these proposed regulations, the OCA is particularly concerned with proposed regulations that will increase costs to consumers. The ANOPR requests that parties submit, along with their comments, any data they may have to support their position. The OCA submits that further data is necessary from the NGDCs and NGSs to demonstrate the effectiveness and relevance of the proposed regulation. The OCA submits that several of the proposed regulations could lead to increased costs for customers and more information is needed to show that such revisions are cost-justified. Through these Comments, the OCA will provide its initial position on the Commission's proposed regulations.

II. COMMENTS

A. Section 62.225(a)(3): Uniform Capacity Cost Recovery.

In Proposed Section 62.225(a)(3), the Commission proposed to require all NGDCs to recover the average system cost of capacity from all customers – regardless of their participation within the market. ANOPR at 8. The Commission’s rationale for the change is that requiring uniform capacity cost recovery from both NGDC and NGS customers will reduce risks related to capacity payments. ANOPR at 8-9. To facilitate this change, the ANOPR would require that capacity costs “shall be charged to all customers as a non-bypassable charge based on the average contract rate for those services.” ANOPR at 10. The Commission points out that Peoples Natural Gas Company releases capacity assets to NGSs like all other NGDCs, but customers, rather than the NGS, pay for the average capacity through a volumetric charge. The Commission is proposing that Peoples’ approach to capacity payment should be adopted by all NGDCs. ANOPR at 8.

The OCA has not raised any concerns with Peoples’ approach to capacity in the past. At this time, the OCA does not object to the adoption of this approach if it can be fairly implemented in other systems. The OCA notes that a careful review of each NGDCs Price to Compare may be necessary to facilitate this change. The OCA reserves the right to review the Comments of the other parties to ensure that the implementation of such a proposal is reasonable and cost-justified.

B. Section 62.225(a)(2): Capacity Assignment From All Assets.

In Proposed Section 62.225(a)(2), the Commission attempts to address the release of capacity from facilities needed for reliability, and where operational problems for NGDCs

could occur if physical capacity was assigned to an NGS. ANOPR at 11-14. The Commission stated that the act of restricting capacity “creates a fundamental flaw, even out of necessity, in a competitive marketplace where assets are intended to follow the customer.” ANOPR at 12. To address this concern, the Commission proposed modifications to Section 62.225(a)(2) that would require each NGDC to develop a mechanism that provides proxy or virtual access to such assets. ANOPR at 14.

The OCA submits that the ANOPR recognizes that in some cases, there is the need for restrictions limiting NGS’ use of certain capacity assets (i.e., LNG, 7C storage contracts). ANOPR at 11. NGDCs have made adjustments to their choice programs to address these restrictions (e.g., UGI’s virtual storage). The ANOPR notes that any use of the restricted asset must first be communicated to and approved by the NGDC before the NGDC acts upon the request. The ANOPR further notes that determining factors for approval or denial of a request should be provided in pre-established rules.

At this time, the OCA submits that more information is needed from the NGDCs regarding the proposed regulation change. NGSs and NGDCs would need to properly identify assets to which NGSs do not currently have reasonable access, or where current mechanisms are not adequate. The OCA further submits that virtual or proxy capacity access has not been a major issue in recent Purchased Gas Cost proceedings so it is not clear to the OCA what benefit is sought to be achieved. The OCA further recommends that the Commission develop protocols for specific resources to ensure reliability.

C. Section 62.225(5): Imbalance Trading.

In proposed Section 62.225(5), the Commission indicated that some NGSs raised concerns about the limited communication and the lack of real time information provided by

NGDCs to NGSs. ANOPR at 15. The Commission stated that the lack of communication could result in NGSs unnecessarily incurring imbalance penalties. The ANOPR requests examples from parties of where additional communication could improve the market or where communication practices complicate imbalance trading at the NGDC level. Although the focus here is on daily balancing, the ANOPR indicates that comments are sought both on daily and end of month imbalances. To implement daily imbalance trading, the Commission is proposing regulations that require NDGCs to provide for imbalance trading the day the imbalance occurred. It is also proposing that capacity may be traded if the balancing position of one or both parties is improved (without giving any specific examples as to how this would be accomplished).

The OCA submits that it is not clear that there will be material benefits by creating daily imbalance trading as a market feature for the Choice Program. As a result, the OCA is concerned with the additional costs that will be incurred by developing the needed trading platform. Under Choice programs in PA, the NGDC identifies the amount of gas an NGS is required to deliver each day. The NGS then arranges for the delivery of that amount. The NGDC accommodates any difference between deliveries and its customer's consumption (imbalance) without penalty. Penalties would only be incurred if an NGS did not arrange for the delivery of the required amount or, possibly if the arranged deliveries were not delivered. The latter would generally be caused by a *force majeure*, in which case it would be unlikely there would be excess supplies available to trade. In fact, it is unclear if there would be supplies available to trade imbalances on any day because all Choice suppliers should be delivering the requested amount. It may be that NGSs would find useful daily imbalance trading for only their larger, Transportation Program customers where the NGDC does not specify the daily amount to be delivered.

The OCA submits that NGSs should be required to demonstrate a significant need for daily trading for Choice Program customers if those costs are to be incurred. Similarly, with respect to daily trading of capacity, there should be a demonstration of a significant need prior to the building of a daily trading platform. Under Choice Programs, NGSs are already assigned capacity sufficient to meet the design day requirements of their customers. Therefore, it is not clear how additional capacity would help address an imbalance. The OCA submits that a full cost-benefit analysis must be completed to ensure the reasonableness of developing a “same day” trading platform for imbalance trading.

D. Section 62.225(6): Non-Peak Penalties.

In the ANOPR, the Commission confirms the need for penalties to help maintain system integrity and reliability. ANOPR at 17. The Commission is concerned, however, that the penalty structure within each NGDC during off-peak demand periods does not reflect the market implications that result from NGS practices when being penalized. ANOPR at 17-19. Instead of pre-set penalties, the Commission states that, “a standardized penalty mechanism across Pennsylvania that is both fair and adequate is needed to reduce barriers to participation in the retail natural gas market.” ANOPR at 17.

The Commission proposes that all NGDCs establish penalties for off-peak periods based on its local gas costs. ANOPR at 18. Either a local trading hub or the NDGC’s average cost of gas could serve as the local (market) price of gas. The ANOPR suggests that UGI’s penalty formula approach provide a template for a market based penalty. ANOPR at 18-19. Under UGI’s approach the penalty is equal to the difference between Tecto M-2 and M-3 daily index prices, but not less than 25 cents per Dth, and is applied to daily imbalances, plus all incremental costs incurred by the Company as a result of the shortfall. UGI’s tariff also provides

for no penalty if imbalances are helpful to the system. This tariff feature is identified in the ANOPR as a preferred provision. The ANOPR seeks comments on whether NGSs should be rewarded when an imbalance benefits the NDGC's balancing position. The proposed regulations would require that penalties during off-peak periods must correspond to market conditions and prices and the lowest penalty must be set at the market price. ANOPR at 20.

The OCA submits that the UGI standard for delivery shortfalls for off-peak periods provides adequate protection for NGDCs. However, it only appears to address shortfalls, not over deliveries. Review of UGI's tariff (Original, page 111) does not identify a penalty for over-deliveries. This may be because UGI does not accept a nomination that would result in an over-delivery.

In addition, the proposed regulation appears to be misstated in requiring that the lowest penalty must be set at the market price rather than the difference between published and local market prices. ANOPR at 20. If the lowest penalty must be set at the market price, the lowest penalty would be approximately \$3.00-\$4.00 per Dth. UGI's current tariff provides for the lowest penalty to be 25 cents per Dth, which is likely to be more than the difference in market prices. For the period April 1, 2017 through October 4, 2017, the difference between Tetco M-2 and M-3 prices averaged 11.57 cents per Dth. On only 5 days was the price difference greater than 25 cents per Dth (September 28, October 1-4). Therefore, the market-based penalty would have been in effect only 2.7 percent of the time.

III. CONCLUSION

The OCA appreciates the opportunity to comment on the Commission's proposed regulations. The OCA submits that NGDC and NGS data as to the cost-effectiveness of these proposed regulations is needed at this time. The OCA will review the Comments of these stakeholders as it further develops its position regarding the proposed regulations.

Respectfully Submitted,



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