

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19]

Application Fees

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) adopts an amendment to § 19.4 (relating to fees) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 29 Pa.B. 5105 (October 2, 1999). Publication was followed by a 30-day public comment period. The Board received no comments. Following the close of the public comment period, the Board received comments and suggestions from the House Professional Licensure Committee (HPLC) on November 16, 1999, and the Independent Regulatory Review Commission (IRRC) on December 2, 1999. The Senate Consumer Protection and Professional Licensure Committee did not comment.

Effective Date

The amendments will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments are authorized under section 30(b) of the Board of Vehicles Act (act) (63 P. S. §818.30(b)).

Response to HPLC and IRRC Comment

The HPLC inquired as to: (1) why the proposed fees were rounded up rather than being calculated on the actual costs of services as estimated by the Board; and (2) requested an explanation of administrative overhead costs contained in the fee package. The HPLC also asked the Board to revise the Regulatory Analysis Form to include the Board's expenditure and income history.

IRRC requested additional information on: (1) the use of a constant overhead cost allocation; (2) the difference in administrative overhead costs for certification and verification of licenses versus other license services, and (3) a more detailed explanation of the fee increases for business name or post office address change and business physical location change.

Calculation of Administrative Overhead

A. *Use of Constant Overhead Cost Allocation and "Rounding Up."*

In computing overhead charges, the boards and the Bureau of Vocational and Occupational Affairs (Bureau) include expenses resulting from service of support staff operations, equipment, technology initiatives or upgrades, leased office space and other sources not directly attributable to a specific board. Once the Bureau's expenses are determined, the Bureau's expenses are apportioned to each board based upon that board's share of the total active licensee population. The board's share of the expenses is divided by the number of active licensees under that board to calculate a "per application" charge which is added to the direct personnel cost to establish the cost of processing (the administrative overhead

charge). The administrative charge is consistently applied to every application regardless of how much time the staff spends processing the application.

This method of calculating administrative overhead to be apportioned to fees for services was first included in the biennial reconciliation of fees and expenses conducted in 1988-89. In accordance with the regulatory review, the method was approved by the Senate and House Standing Committees and IRRC as reasonable and consistent with the legislative intent of statutory provisions which require the Board to establish fees which meet or exceed expenses.

IRRC suggested that within each board, the administrative charge should be determined by the amount of time required to process each application. For example, an application requiring 1/2 hour of processing time would pay one-half as much overhead charge as an application requiring 1 hour of processing time. The Bureau concurs with IRRC that by adopting this methodology the Bureau and the boards would more nearly and accurately accomplish their objective of setting fees that cover the cost of the service. Therefore, in accordance with IRRC's suggestions, the Bureau conducted a test to compare the resulting overhead charges obtained by applying the IRRC suggested time factor versus the current method.

This review of a Board's operation showed that approximately 25% of staff time was devoted to providing services described in the regulations. The current method recouped 22% to 28% of the administrative overhead charges versus the 25% recouped using a ratio-based time factor. However, when the time factor is combined with the licensing population for each Board, the resulting fees vary widely even though different licensees may receive the same services. For example, using the time-factor method to issue a verification of licensure would cost \$34.58 for a landscape architect as compared with a cost of \$10.18 for a cosmetologist. Conversely, under the Bureau's method, the administrative overhead charge of \$9.76 represents the cost of processing a verification application for all licensees in the Bureau. Also, the Bureau found that employing a time factor in the computation of administrative overhead would result in a different amount of overhead charge being made for each fee proposed.

With regard to IRRC's suggestions concerning projected versus actual expenses, the boards note that the computation of projected expenditures based on amounts actually expended has been the basis for biennial reconciliations for the past 10 years. During these 5 biennial cycles, the experience of both the boards and the Bureau has been that established and verifiable data which can be substantiated by collective bargaining agreements, pay scales and cost benefit factors. This method has provided a reliable basis for fees. Also, the fees are kept at a minimum for licensees, but appear adequate to sustain the operations of the board over an extended period. Similarly, accounting, recordkeeping and swift processing of applications, renewals and other fees were the primary basis for "rounding up" the actual costs to establish a fee. This rounding up process has in effect resulted in the necessary but minimal cushion or surplus to accommodate unexpected needs and expenditures.

For these reasons, the Board has not made changes in the method by which it allocates administrative expenditures and the resulting fees will remain as proposed.

B. Variation in Administrative Charge of Verification/Certification Versus Administrative Charge for Other Services.

IRRC questioned why the administrative charge included for verification or certification of licensure versus the administrative charge included for other services was different. The administrative charge of \$9.76 represents the cost of processing a verification or certification application for any licensee in the Bureau irrespective of what board issues the license. The administrative charge of \$11.53 represents the cost of processing other types of licensure applications for only licensees under the Board. In other words, whereas the administrative charge for verification or certification of licensure is constant across all licensees under the Bureau, the license services performed that are specific to the type of license held are calculated based only on the number of licensees served by the board. Thus, each board has two administrative charges applied to the provision of licensure services: \$9.76 is applied to all boards for verification or certification services and an individual fee is applied on a per board basis.

Fees for Business Changes

IRRC requested a more detailed explanation of the fee increases for change of business name or post office and change in business physical location.

When a business requests a name or address change, the Board staff reviews the application for completeness and contacts the applicant for any missing information. The staff verifies that the name of the dealership has not changed as a result of an ownership change and determines whether the address change is due to an actual physical location change or to a postal address reassignment. The staff then processes the new information through the computer and issues an updated license.

If there has been a physical location change, in addition to the previously-mentioned procedures, the Board staff prepares an inspection report form and forwards the form to the Bureau of Enforcement and Investigation (BEI). The BEI conducts an onsite inspection, determines whether statutory and regulatory standards for the facility are met and sends the inspection results to the Board office. Board staff then updates the computer information and issues a license with the new address or, if BEI has found that the new location does not comply with applicable facility standards, issues a discrepancy notice. Inspection by the BEI represents a change from the former procedure, when inspections were performed by the State Police at no charge to the Board. The State Police no longer perform this service.

IRRC also suggested that the fee regulation include the phrase "no inspection required" next to the fee for "business name or post office address change" and the phrase "inspection required" next to the fee for "business physical location change" to explain the difference in fee amount. The Board has rejected this suggestion. The Board's experience indicates little confusion among its licensees in payment of these fees. In addition, the Board does not wish to complicate the fee regulation by unnecessarily amending anything other than the fee amount.

Reinspection After Failure

When applicable facility standards are not met at initial inspection for new or relocated businesses, the BEI

advises board staff of the reasons for failure at the onsite inspection. The staff sends a discrepancy letter to applicant informing the applicant of the deficiencies. Applicant notifies the Board office when the deficiencies have been corrected. The Board office then prepares a reinspection report form and forwards the form to the BEI for follow-up inspection. After the follow-up inspection is completed, the results are sent to the Board staff. Board staff then either sends another discrepancy letter or issues the license.

Although the existing application fees capture the cost of the initial inspection by the BEI prior to issuance of a license, the fees do not cover the cost of reinspection by the BEI when the applicable facility standards were not met at the initial inspection. This new fee will cover the additional cost of reinspection and require that only those using the service must pay for the service. The Board estimates that approximately ten requests for reinspection are made in a biennial period.

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1. The final-form regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on those members of the private sector who apply for services from the Board. The amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 17, 1999, the Board submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 5105, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In addition to submitting the final-form regulation, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." In preparing this final-form regulation, the Board has considered all comments received from the Committees and IRRC.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), this final-form regulation was deemed approved by the HPLC on October 11, 2000, and deemed approved by the Senate Committee on October 23, 2000. IRRC met on November 2, 2000, and approved the final-form regulation in accordance with section 5.1(e) of the Regulatory Review Act.

Further Information

Individuals who need information about the final-form regulation may contact the Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7155.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated under, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This amendment does not enlarge the purpose of proposed rulemaking published at 29 Pa. B. 5105.

(4) This amendment is necessary and appropriate for administration and enforcement of the Board's authorizing statute.

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by amending § 19.4 to read as set forth in Annex A.

(b) The Board shall submit a copy of this order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall certify this order and Annex A and shall deposit them with the Legislative Reference Bureau as required by law.

(d) The amendment shall take effect immediately upon publication in the Pennsylvania Bulletin.

ROBERT G. PICKERILL,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 6020 (November 18, 2000).)

Fiscal Note: Fiscal Note 16A-600 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

FEES

§19.4. Fees.

Table listing fees for various license applications and transfers, such as Vehicle salesperson license application (\$25), Vehicle representative license application (25), etc.

Table listing fees for various license renewals and changes, such as Business name or post office address change (30), Business physical location change (60), etc.

[Pa.B. Doc. No. 00-2160. Filed for public inspection December 15, 2000, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35]

[Correction]

Licensure Requirements

An error occurred in the document amending § 35.27(b)(3) (relating to examination of broker's license), which appeared at 30 Pa.B. 5954, 5958 (November 18, 2000). Subparagraph (ii) was inadvertently dropped from the paragraph. The correct version of subsection (b)(3) appears in Annex A, with ellipses referring to the existing text of the section.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 35. STATE REAL ESTATE COMMISSION

Subchapter C. LICENSURE

LICENSURE REQUIREMENTS

§ 35.271. Examination for broker's license.

* * * * *

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

* * * * *

(3) To be counted toward the education requirement, a real estate course shall have been offered by:

(i) An accredited college, university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth.

(ii) A real estate school in this Commonwealth approved by the Commission.

(iii) A real estate school outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the school is located. The course transcript or certificate of completion shall state that the course is approved by the licensing authority of the jurisdiction where the school is located.

(iv) A real estate industry organization outside this Commonwealth, if the course is approved by the licensing jurisdiction of another state. The course transcript or certificate of completion shall state that the course is approved by the licensing jurisdiction which has approved it.

* * * * *

[Pa.B. Doc. No. 00-1977. Filed for public inspection November 17, 2000, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 62]

[L-00000146]

Reporting Requirements for Universal Service and Energy Conservation Programs

The Pennsylvania Public Utility Commission (Commission) on June 22, 2000, adopted a final rulemaking order establishing standard reporting requirements for universal service and energy conservation programs for natural gas distribution companies. The contact persons are Janice K. Hummel, Bureau of Consumer Services (technical) 783-9088 and Kathryn G. Sophy, Law Bureau (legal) 772-8839.

Executive Summary

On June 22, 1999, Governor Tom Ridge signed into law 66 Pa.C.S. Chapter 22 (relating to Natural Gas Choice and Competition Act) (act). The act revised 66 Pa.C.S. (relating to Public Utility Code) (code) by adding Chapter 22, relating to restructuring of the natural gas utility industry. The act is clear that natural gas distribution companies (NGDCs) are to continue, at a minimum, the protections, policies and services that now assist customers who are low-income to afford natural gas service. Section 2203(8) of the act (relating to standards for restructuring of natural gas utility industry) requires the Commission to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each natural gas distribution service territory.

The purpose of this rulemaking is to establish standard reporting requirements for universal service and energy conservation programs. The data collected as a result of the reporting requirements will assist the Commission to ensure that universal service and energy conservation programs are appropriately funded and available in each NGDC's service territory. The reporting requirements will also ensure that the data is reported uniformly and consistently.

The regulations establish that the NGDCs will report the following information to the Commission: 1) Annual reports on residential low-income collections and universal service and energy conservation programs, 2) Plans every 3 years for universal service and energy conservation programs, 3) Every 6 years an independent third-party evaluation that measures the degree that an NGDC's universal service and energy conservation programs are working to provide affordable utility service at reasonable rates.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 3, 2000, the Department submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 897 (February 19, 2000), to IRRC and to the Chairpersons of the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing these final-form regulations, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on October 23, 2000, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 2, 2000, and approved the final-form regulations.

Public Meeting
held June 22, 2000

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice-Chairperson; Nora Mead Brownell; Aaron Wilson, Jr.; Terrance J. Fitzpatrick.

Final Rulemaking Order

By the Commission:

On June 22, 1999, Governor Tom Ridge signed into law the act. The act revised the code. The Pennsylvania Public Utility Commission (Commission) is the agency charged with implementing the act.

The Act provides at section 2203(7) that the Commission shall, at a minimum, continue the level and nature of the consumer protections, policies and services that now assist customers who are low-income to afford natural gas service. Section 2203(8) of the act further requires the Commission to ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each natural gas distribution service territory.

At public meeting of January 12, 2000, the Commission issued an order adopting and directing publication of proposed regulations to establish reporting requirements for gas universal service and energy conservation programs.

The purpose of this rulemaking is to establish standard reporting requirements for universal service and energy conservation programs. The data collected as a result of the reporting requirements will assist the Commission in monitoring the progress of the NGDCs in achieving universal service in their service territories. The reporting requirements will also ensure that the NGDCs report data uniformly and consistently.

On January 26, 2000, the Office of Attorney General issued its approval of the proposed regulations as to form

and legality. On February 3, 2000, the Commission delivered copies of the proposed rulemaking to the Chairperson of the House Committee on Consumer Affairs, the Chairperson of the Senate Committee on Consumer Protection and Professional Licensure, the Independent Regulatory Review Commission (IRRC) and to the Legislative Reference Bureau. The proposed rulemaking was published for comment at 30 Pa.B. 897 (February 19, 2000) for a 45-day comment period that ended April 4, 2000.

We received written comments from the following parties; Columbia Gas of Pennsylvania, Inc. (Columbia); the Office of Consumer Advocate (OCA); IRRC, and the Pennsylvania Gas Association (PGA), on behalf of its member companies.

We have considered all the comments and thank the commentators for their suggestions on developing final regulations.

We have identified certain issues that were common to several of the comments and will address them in a combined fashion. We begin by addressing the comments to specific sections. We address other non-section specific comments after our response to the specific section-by-section comments. The final regulations, as revised pursuant to the discussion in the instant order, appear in Annex A of this order.

§ 62.2. Definitions.

Customer Assistance Program benefits or CAP benefits—Because arrearage forgiveness is not a component in each NGDC’s CAP, IRRC and the PGA recommended that the phrase, “as applicable” be added to the end of the proposed definition of this term. IRRC comments that the definition of CAP benefits includes “CAP credits” which is not defined. To provide clarity, IRRC requests the Commission to define the term.

Response

We accept IRRC and the PGA’s recommendation and have amended the definition to include the addition of the phrase “as applicable.” We also accept IRRC’s recommendation and have defined CAP credits as the difference between the amount that would have been billed at the standard residential rate and the amount billed at the CAP rate.

Customer Assistance and Referral Evaluation Services benefits or CARES benefits—The PGA requested that the Commission clarify or eliminate the words “kinds of referrals.” IRRC also requests that the Commission clarify this section.

Response

We have amended the definition of “CARES benefits” to clarify that “kinds of referrals” means the number of referrals to CARES and number of customers accepted into the CARES program.

Collection operating expenses—The PGA does not object to the definition, but requests deletion of the second sentence of § 62.5(a)(1)(ii) since NGDCs will develop their total expense figures through a “top down” approach and identify the total corresponding expense to its residential accounts. The PGA commented that the length and detail of the list of collection operating expenses suggests that the Commission expects the NGDCs to derive the residential account share for each expense and total the shares to derive an aggregate figure.

Response

We provide the list to show examples of collection operating expenses. We did not expect NGDCs to determine a cost for each item on the list. However, the PGA’s request is reasonable, and therefore we have deleted the second sentence of § 62.5(a)(1)(ii). The proposed definition reads as PGA requests.

Confirmed low-income residential account—IRRC suggested the term “information” is unclear and requests the Commission to clarify the specific types of information that would qualify a customer for low-income designation.

Response

We agree and have clarified that this designation may include receipt of Low-Income Home Energy Assistance Program (LIHEAP) benefits, self-certification by the customer, income source or information obtained from the customer during payment negotiations pursuant to 52 Pa. Code § 56.97(b) (relating to procedures upon ratepayer or occupant contact prior to termination).

Direct dollars—The PGA requested that the Commission clarify, as we did in the corresponding electric Reporting Requirements for Universal Service and Energy Conservation Programs in §§ 54.71—54.76, that the Commission is not asking NGDCs to report on referrals or the outcome of referrals.

Response

With respect to this PGA request, we clarify that, as with the above noted Chapter 54 electric reporting requirements, the Commission is not requesting NGDCs to report outcomes of referrals.

Energy assistance benefits—The PGA recommended that the Commission revise this definition to read the same as the definition of this term found in the corresponding Chapter 54 electric reporting requirements. The PGA requested the Commission to delete the phrase “hardship grants and local agencies’ grants.”

Response

We accept the recommendation and have amended the language to mirror the Chapter 54 electric regulations.

Low-income customers—The OCA requested that the Commission add the word “gross” before “household income” so that the definition of low-income customers is consistent with the way the Federal poverty level is determined. The OCA also requested the Commission to add the following sentence to the definition: “Gross household income shall not include the value of food stamps or other noncash income.” The OCA suggested this additional language since the Food Stamp statute prohibits the inclusion of these benefits. (7 U.S.C.A. § 2017(b))(1995). IRRC supported the OCA’s comments.

Response

We agree and have amended this section to reflect the OCA’s recommendations.

NGDC—Natural gas distribution company—IRRC commented that the proposed definition differs from the definition in the Act. IRRC recommended that the Commission reference the statutory definition of NGDC in section 2202 of the act (relating to definitions).

Response

We accept the recommendation and have revised the definition accordingly.

Payment troubled—The PGA objected to the proposed definition of payment troubled because it will include

customers whose incomes exceed 200% of the poverty guidelines and who have failed to maintain their payment agreements because of lifestyle choices. The PGA recommended that the Commission define "payment troubled" as "other residential customers experiencing temporary emergencies, as defined by the commission."

Response

With respect to the PGA's recommendation, we decline to make this change since we believe it is important to know the total number of payment troubled customers of an NGDC. The definition of "payment troubled" for reporting requirements is intended, in part, to help place the numbers of customers who are or may be potentially eligible for universal service programs into the context of the NGDC's overall collection picture. An increase in the number of low-income customers who fall into the overall "payment troubled" category may be one indication of a need to modify a universal service program.

Successful payment arrangements—The PGA recommends the Commission delete this definition and the reference to this term in § 62.5(a)(1). The PGA argued that an analysis of the number of successful payment arrangements measures the performance of a customer more than the performance of a utility. The PGA stated many NGDCs do not track successful payment arrangements because § 56.231 requires utilities to track customers by delinquency status. The PGA argued that requiring this new data request is not worth the associated costs in account administration and computer programming.

Response

We disagree with the PGA that this information is of questionable value because it may measure customer performance more than utility performance. We believe there is a relationship to consider between the number of successful payment arrangements, utility collection efforts, universal service policies, and customer performance.

Section 2203(8) of the act requires the Commission to ensure that universal service programs are appropriately funded and available. Measuring the number of successful payment arrangements will be one method to help determine if appropriate universal service programs are available.

If, for example, an NGDC has a low number of successful payment arrangements, the Commission would expect the NGDC to explore the reasons for the low rate. One reason for a low number of successful payment arrangements could be that an NGDC is not properly referring and enrolling its low-income customers to universal service programs. In other terms, some low-income customers may be entering into unaffordable payment arrangements merely to avoid an immediate threat of termination.

Finally, we recognize that some coding and program changes will be necessary to capture this data. To accommodate these changes, the first collection reports are not due until April 1, 2003, which will allow NGDCs time to make those changes.

Universal Service and Energy Conservation—Because the proposed definition is identical to the definition in the Act, IRRC recommends that the Commission reference the statutory definition of Universal Service and Energy Conservation in section 2202 of the act.

Response

We agree and have revised the definition of this term to reference the statutory definition in section 2202 of the act.

§ 62.3(a). Meeting program goals.

IRRC requested the Commission to clarify how the Commission will determine if the NGDCs meet program goals and what consequences apply if the Commission determines an NGDC has not met its goals.

Response

We do not believe it necessary to revise the language in § 62.3(a) but clarify that we will rely on several factors to determine if an NGDC meets its goals. First, we will consider the findings of the NGDC's independent evaluation as required in § 62.6. Moreover, the Commission will carefully analyze the NGDC's data reports in § 62.5 in conjunction with the NGDC's universal service plan at § 62.4. Finally, the Commission will examine the number and kinds of informal complaints filed with the BCS to determine if a relationship exists between universal service and the types of informal complaints filed with the Commission. If an NGDC is not meeting program goals, the Commission will direct an NGDC improve compliance with this section.

§ 62.3(b)(1). Program goals.

The OCA suggested that the Commission add "affordable" before the phrase "natural gas service" to more accurately state the goals.

Response

Because section 2203(7) of the act uses the term "to afford", we accept the OCA's proposed revision.

§ 62.4(a)(1). Timing of Required Filings.

The PGA submitted that a less costly approach would link the universal service plan-filing schedule to the evaluation-filing schedule. The PGA also submits that the plans are not public information because the plans' sole purpose is to facilitate the Commission's responsibilities in section 2203(8) of the act. IRRC requests the Commission to explain how we determined the 3-year filing schedule.

Response

We decline to make changes in this provision. The corresponding provision in the Reporting Requirements for Universal Service and Energy Conservation Program in § 54.74(a)(1) requires an EDC to submit a plan every 3 years. The Commission had originally proposed a 2-year filing period. However, commentators, including the PGA, persuaded us to increase the time frame. We believe a 3-year period to be reasonable to help ensure the Commission that universal service programs are appropriately funded and available.

In our view, a universal service plan that includes a projected needs assessment and projected enrollment levels coupled with the collection reporting data, should provide the Commission with tools to determine if these programs are available to low-income customers. We decline to extend the filing schedule to 6 years because circumstances may change in an NGDC's service territory that may require more timely revisions to universal service programs. Evaluations are due a year before universal service plan filings. This schedule will allow a NGDC the opportunity to reflect changes to the plan based on evaluation recommendations. The proposed filing schedule links universal service plan filings with evaluations, as they become available. The BCS will review the universal service plans and make recommendations to the Commission as required in § 62.4(5).

Finally, we see no reason for the plans to be confidential. These plans provide nonproprietary information on the details of programs available to low-income customers.

§ 62.4(a)(5) and (6). Commission action.

IRRC commented that the sequence of these two subsections is confusing. IRRC requests the Commission to improve the clarity of the paragraphs by reversing their order.

Response

We agree with IRRC's suggestion and have reversed the order of the paragraphs.

§ 62.4(b)(3). Projected needs assessment.

The OCA commented that a link between how each program component responds to the needs assessment is missing. The OCA suggested adding the following language at the end of § 62.4(b)(3): The projected needs assessment and an explanation of how each program component responds to one or more identified needs. IRRC commented that the phrase "needs assessment" is vague and requests the Commission to define the phrase in this section.

Response

With respect to the OCA's comments, we agree and have amended this section to reflect OCA's suggestion. In regard to IRRC's comments, we will include the following clarification: The needs assessment should include the number of identified low-income customers and an estimate of all low-income customers, the number of identified payment troubled, low-income customers, an estimate of payment troubled, low-income customers, the number of customers who still need Low-Income Usage Reduction Program (LIURP) services and the cost to serve that number, and the enrollment size of CAP to serve all eligible customers.

§ 62.4(b)(8). Plan comparisons.

To provide clarity, IRRC requested that the Commission explain what is required of an NGDC in this section. IRRC requested that the Commission clarify if the NGDC needs to submit two plans or a comparison of plans.

Response

We will modify the language for clarity to include the following: If an NGDC has not implemented all of the provisions of an approved plan, the NGDC should provide an explanation for that failure and plans for corrective action. If an NGDC is requesting approval of a revised plan, the NGDC should provide a justification for the revisions in its request for approval.

§ 62.4(b)(5). Program budget.

The OCA requests the Commission to clarify that NGDCs should provide more detail than a single line-item budget for all universal service programs.

Response

We agree that the plan contents should include the items in § 62.4(b)(5)(1)–(8) broken down by program and will amend the language at this section to clarify this intent.

Additional subsections.

Because of the OCA's review of universal service programs in individual NGDC proceedings, the OCA recommends additional subsections are necessary to address three concerns. First, there is disagreement about the

difficulty of identifying and enrolling participants. Second, program rules are not all identified in sufficient detail. Third, by evaluating the integration of universal service programs, the Commission and NGDCs can increase the efficiency and cost-effectiveness of these programs. The OCA submits the program plans should be augmented to include the following: a description of all outreach and intake efforts, identification of the steps used to identify low-income customers with arrears and to enroll them in appropriate programs, identification of all program rules, and identification of the manner in which program components operate in an integrated fashion.

Response

We agree that the additional information recommended by the OCA would provide useful information to help the Commission meet its statutory obligations under sections 2202 and 2203(8) of the act. Therefore, we have amended § 62.4(b)(1) to clarify that a detailed program description should include program rules, and have added the three remaining subsections above.

§ 62.5(a)(1). Collection reporting.

The PGA and Columbia commented that NGDCs currently report much of this information in § 56.231 reports. Columbia also commented that "because of the nature of the information" the § 56.231 report must be prepared manually. The PGA and Columbia asked that the Commission eliminate the § 56.231 report.

IRRC requested the Commission to eliminate existing reporting requirements that duplicate the requirements of these regulations. IRRC also recommended in § 62.5(a)(1), "NGDCs should report on the calendar year prior to the reporting year" that the Commission replace "should" with "shall" since this provision is not optional.

Response

As with the reporting process of electric distribution companies (EDCs), our intent is to streamline the reporting process for NGDCs. The data from the proposed regulations will eventually replace most of the universal service program reports that NGDCs now provide to us. However, we believe this process will evolve with input from the NGDCs rather than an abrupt elimination of existing reports. Existing reports will fill the gaps until the NGDCs file new reports. However, to clarify our intent to streamline the process, we have added language in the ordering paragraph that directs the BCS to, when appropriate, eliminate and/or consolidate existing reports that address the same content as the reporting requirements in these regulations. We have also changed "should" to "shall" as requested by IRRC.

Additional subsections.

The OCA expressed concern that the collection data will not adequately identify the size of the low-income, payment-troubled population. The OCA submits that because of "churning," the data will only reflect a point-in-time number of customers on payment agreements. "Churning" is a commonly used term that refers to the level of turnover in payment agreements. For example, a customer may have more than one payment agreement in a year. Payment agreement data will not reflect "churning." The OCA requests the Commission to add six additional sections to address "churning."

Response

The Commission is aware of the "churning" problem and believes that § 62.5(1)(i), along with other data relating to payment agreements and arrears, adequately

addresses the situation. Previously, NGDCs have not reported on the number of successful payment agreements. We are also concerned that expanding these sections may be excessively burdensome. For these reasons, we reject OCA's recommendation.

§ 62.5(a)(1)(i). Successful payment arrangements.

For the reasons stated in the definition section, the PGA argued that requiring this new data request is not worth the associated costs in account administration and computer programming and requests the Commission to delete this section. Columbia also specifically requests that the Commission delete this section.

Response

For reasons already stated, the Commission declines to delete this section. Briefly, we believe there is a relationship between the number of successful payment arrangements, utility collection efforts, universal service policies, and customer performance.

Section 2203(8) of the act requires the Commission to ensure that universal service programs are appropriately funded and available. Measuring the number of successful payment arrangements will be one method to help determine if universal service programs are available.

Finally, to accommodate these changes, the first collection reports are not due until April 1, 2003, which will allow NGDCs time to make those changes.

§ 62.5(a)(1)(ii). Collection operating expenses.

For the reasons listed in the definition section, PGA's requested the Commission to delete the second sentence of this section that provides a list of collection operating expense.

Response

We included the list to provide examples of collection operating expense. However, we will delete the sentence.

§ 62.5(a)(1)(iii). Write-offs.

The PGA questioned whether write-offs associated with bankruptcy provide useful data.

Response

If an NGDC included bankruptcies in the amount of gross and net residential write-offs, we expect the NGDC to include the information in this section. We are not asking NGDCs to report bankruptcy separately.

§ 62.5(a)(1)(v)—(ix). Annual collection requirements that differ from the EDCs universal service and energy conservation reporting requirements.

The PGA submitted the Commission places more onerous reporting requirements on the NGDCs than it did the EDCs. The PGA requested that the proposed regulations be the same as the corresponding Chapter 54 electric reporting requirements. Columbia objected to providing this data by month, stating that this information is not readily available by month. IRRC suggested the Commission provide a specific estimate of costs imposed by these provisions and an explanation of why these costs are justified.

Response

Our intent is to make the EDC and NGDC universal service reporting regulations as consistent as possible. We note that the collection requirements are in fact the same except for § 62.5(a)(1)(v). Further, with respect to § 62.5(a)(1)(v), EDCs have indicated that they will voluntarily supply the information covered by this section. The

reason: After the Commission adopted the final EDC universal service reporting requirements, the Bureau of Consumer Services (BCS) drafted a data dictionary that defined the individual sections of the collection and program reporting requirements. The BCS asked the EDCs to comment on the data dictionary and a draft-reporting format. The EDCs and the BCS met to resolve any confusion about the information requests. As part of that process, the EDCs agreed to supply the same information we are asking the NGDCs to submit at § 62.5(a)(1)(v)—(ix).

The Commission expects to follow the same implementation process by meeting with the NGDCs after approval of final NGDC universal service reporting regulations. We provide a section-by-section explanation for § 62.5(a)(1)(v)—(ix) to show that the requested information is the same for both the NGDCs and the EDCs.

§ 62.5(a)(1)(v)—The Commission inadvertently omitted this request for information from the electric reporting requirements. The EDCs have volunteered to submit this information with the § 54.75 data. We are correcting the omission from the electric regulations at § 62.5(a)(1)(v). However, so that this information is consistent, we will change the phrase, "number of residential revenues by month for the 12 months covered by the reports" to "dollar amount of annual residential revenues."

§ 62.5(a)(1)(vi)—(vii)—The corresponding electric requirement is § 54.75(1)(v). We separated, by means of the data dictionary, the data request at § 54.75(1)(v) into two components: in arrears on a payment agreement and in arrears but not on a payment agreement. To provide clarity, we made the separation at § 62.5(a)(1)(vi)—(vii) rather than in a data dictionary as we did with the EDCs.

§ 62.5(a)(1)(viii)—(ix)—The corresponding electric requirement is § 54.75(1)(vi). As above, we separated the data request at § 54.75(1)(vi) into two components: in arrears on a payment agreement and in arrears but not on a payment agreement. To provide clarity, we made the separation at § 62.5(a)(1)(viii)—(ix) rather than in a data dictionary as we did with the EDCs.

In response to Columbia's objection that monthly data is difficult to obtain, we point out that Columbia currently provides the data in § 62.5(a)(1)(v)—(xii). Like Columbia, utilities voluntarily provide the information in § 62.5(a)(1)(v), (vi), (viii) and (x). Since 1986, NGDCs have voluntarily provided to BCS the payment arrangement data in § 62.5(a)(i), (vi), (viii) and (x). Since 1982, NGDCs have voluntarily provided to BCS the collection data in § 62.5(a)(1)(ii)—(v). The proposed regulations add three new provisions: 1) classification of accounts by low-income status; 2) the number of successful payment arrangements; and 3) the total number of estimated low-income households. The voluntary data that utilities submit is actually more comprehensive than the proposed requirements. The requirements of § 56.231 mirror § 62.5(a)(1)(vii), (ix), (xi) and (xii).

Most NGDCs currently collect monthly information for their own monitoring purposes. Monthly information will consider that collections vary from month to month based on the seasons and policy decisions of NGDCs. Monthly data will allow the Commission to average monthly figures where appropriate to allow year to date comparisons with prior years. We also clarify that we are asking

NGDCs to report the monthly information on an annual basis. We are not requesting the NGDCs to submit this information each month.

With respect to IRRC's comments regarding the costs, we acknowledge the difficulty in attempting to estimate costs associated with universal service reporting. However, we continue to believe that NGDCs will not experience significant costs to implement these regulations. This belief is based on the fact that, with the exception of the three provisions stated above, the NGDCs currently voluntarily provide or comply with § 56.231 to provide most of the data required by the proposed regulations. The NGDCs have provided the § 56.231 data since those requirements became effective November 1979. In some instances, the proposed regulations request less information than NGDCs currently submit. Over time, the Commission will eliminate existing reports that duplicate provisions of these regulations.

With respect to why these costs are justified, these regulations are necessary to help the Commission ensure that universal service programs are appropriately funded and available as required by the statute in section 2203(8) of the act. The data required by the reporting requirements will assist the Commission to determine if universal service programs are available and appropriately funded to meet the needs of low-income natural gas customers. Utility service is essential to the health and well being of residents, to public safety and to orderly economic development. Loss of utility service poses a serious health and safety threat to the citizens of this Commonwealth. Because utility bills may not be affordable for many low-income customers, they face termination of utility service because of the inability to pay utility bills. Universal service programs help low-income customers to maintain utility service.

Finally, individual evaluations have found that components of universal service programs are cost-effective alternatives to traditional collection methods. These programs, such as CAPs and LIURP, reduce the costs of carrying arrearages, collection costs, and bad debt expenses for NGDCs.

§ 62.5(a)(1)(xiii). Number of low-income households.

The OCA requested the Commission to add language that requires NGDCs to obtain Commission approval before estimating low-income customers with information other than census data.

Response

We decline to make this change because the Commission retains the authority to reject an NGDC's estimate.

§ 62.5(a)(2)(i). Additional program reporting requirements.

The OCA requested the Commission to add two reporting requirements to § 62.5(a)(2)(i): the number of program participants by source of intake and the number of program participants participating in two or more of the universal service program components.

Response

We agree with the OCA that this additional information is valuable and therefore we have accepted both of these recommendations.

§ 62.5(a)(2)(i)(B). Demographics.

The OCA requested the Commission to change the word "family" to "household" because the term "family" is inconsistent with the definition of low-income customers and with the Federal poverty guidelines. IRRC's com-

ments mirrored the OCA's comments. The PGA requested the Commission to eliminate this section because of the costs associated with tracking and reporting customer demographics. The PGA stated that the NGDCs requested and the BCS recently agreed to make LIURP demographic reporting optional. Columbia stated that they have collected this information for 10 years and "fail to see any benefit to collecting this data." Columbia suggested that the Commission eliminate this section or allow NGDCs to substitute census information.

Response

With respect to the OCA's suggestion, we have amended this section to reflect the more appropriate term "household" instead of "family."

In regard to the PGA's comments, the PGA has apparently misunderstood the BCS' position regarding demographic data for LIURP. The BCS agreed to collapse the current demographic data for LIURP to conform to the data requirements of this section.

With respect to Columbia's concern, we do not believe collecting demographic information is burdensome. Utilities request this information on a routine basis to make payment arrangements with their customers, to enroll customers in universal service programs, and to ensure compliance with § 56.100 (relating to Winter Termination Procedures).

If a utility is not currently requesting this information, we believe it is difficult, if not impossible, for that utility to comply with § 56.97(b), which provides that a ratepayer's ability to pay shall be a factor in establishing a payment agreement. Section 62.5(a)(2)(i)(B) requires NGDCs to collect household size, household income, source of income, and the number of household members under 18 years of age and over 62 years of age. An NGDC must obtain all of this information, except age, to enroll eligible customers in universal service programs. The Commission requires an NGDC to certify that there are no household members under age 12 or over age 60 when an NGDC petitions the Commission to terminate utility service in the winter in § 56.100.

In our view, a review of demographic data will help the Commission determine whether NGDCs are appropriately targeting universal service programs to the correct audience. Households whose source of income is public assistance have incomes below 40% of the poverty guidelines. Many working poor households on the other hand have incomes below 80% of the poverty guidelines. This difference in incomes means that services for households who receive public assistance benefits may need to be different than those services for the working poor. To realize a cost-effective and efficient universal service programs, NGDCs must target appropriate services to their customers. Demographic data is crucial for targeting appropriate services. Census data provides generic data. Census data cannot provide utility specific data to show that NGDCs are targeting universal service programs correctly. Therefore, we decline to make the change advocated by the PGA.

§ 62.5(a)(2)(ii)(A)(I). LIURP reporting data.

IRRC requested the Commission to clarify whether the information is required on an annual basis for the preceding year.

Response

We have clarified that we require the information annually.

§ 62.5(a)(2)(ii)(A)(II). Production data.

To provide clarity, IRRC requests the Commission to define "production data" in this subsection or in § 62.2. IRRC also requests the Commission to explain why the submission dates are different for § 62.5(a)(2)(ii)(A)(I) and (II).

Response

We have changed the phrase "production data" to "number of completed jobs." The requirement at § 62.5(a)(2)(ii)(A)(I) is a separate reporting on each completed LIURP job. Since 1990, companies have reported this data. The original basis of this requirement is at § 58.15 of the LIURP regulations. This data contains housing and household demographic characteristics, energy consumption data, billing and payment data, and itemized cost of conservation measures installed. The due date of April 30 is consistent with the reporting of all utility conservation program reporting to the Commission.

§ 62.5(a)(2)(ii)(C)(II). Direct dollars.

The PGA comments that several NGDCs have advised PGA that they do not code payments from agencies as customer payments. The PGA urges the Commission to issue waivers to this section for those NGDCs who do not collect this data.

Response

Although most NGDCs currently provide most of the data these regulations request, we understand that some coding and programming changes will be necessary. The first collection reports are not due until April 1, 2003, which will allow NGDCs time to make those changes. An NGDC has the option to petition the Commission for waiver of this section.

§ 62.5(a)(2)(ii)(D)(II). Special contributions.

IRRC requests that the Commission define "special contributions" either in this section, or in the definition section.

Response

We have clarified this section to read "special contributions other than shareholder or ratepayer contributions."

§ 62.6(a). Independent third-party evaluator.

The OCA submits this provision requires additional language to ensure that the evaluation selection process ensures against the exercise of a biased selection process. IRRC comments that "independent third party" is unclear and asks the Commission to define the term.

Response

We have clarified that an independent third party is someone other than the NGDC. To ensure that the selection process is unbiased, we have also adopted the OCA's language that requires an NGDC to confer with the BCS before the final selection of an evaluator.

§ 62.6(b). Time for review.

IRRC requested an explanation for the 6-year period between evaluations.

Response

We believe that 6 years will provide ample time for NGDCs to consider findings and recommendations and adjust their programs, without being unduly burdensome. An impact evaluation is an essential tool to help determine if an NGDC is meeting its universal service goals. In addition, an independent evaluation is a critical tool to improve the efficiency and cost-effectiveness of universal

service programs. The 6-year period mirrors the electric restructuring requirements in § 54.75(b). As programs achieve cost-efficiencies, we expect that the evaluations may be more narrowly focused.

§ 62.6(c). Independent evaluation.

IRRC commented that unless the Commission specifies the general content, evaluations among NGDCs will vary widely regarding subject content. IRRC recommended that the Commission either specify the general content of the evaluations or delete the phrase "content or" in the final-form regulation.

Response

We have deleted the phrase "content or." We clarify that general content should include an analysis of customer payment behavior, energy assistance participation, energy consumption, administrative costs and program costs. As with the EDCs, the Commission, in collaboration with the NGDCs, intends to develop general guidelines for the evaluation.

§ 62.6(d). Independent evaluation.

Because this section is the same as § 62.6(a), IRRC requests the Commission to delete this redundant section.

Response

We have deleted this section.

§ 62.7. NGDCs with less than 100,000 residential accounts.

IRRC points out a typographical error at § 62.7.

Response

We have corrected "§ 54.74—54.76" to read "§ 62.4—62.6."

Other Issues

The PGA requested the Commission to investigate whether the proposed regulations, similar to the electric regulations, are appropriate for the natural gas industry. The PGA submitted that Statewide standards or expanding current programs beyond those currently provided are not legitimate functions of the regulations. PGA also submitted that the NGDCs universal service and energy conservation efforts, particularly CAP, are not required under the code. These efforts are voluntary and "are not part of the class of protections, policies and services the Gas Choice Legislation intended to preserve." Finally, the PGA requested the Commission to acknowledge that any costs associated with implementing the regulations are recoverable. The PGA insists that the Commission's activities are constrained by section 2206(a) of the act that states:

The commission shall, at a minimum, continue the level and nature of the consumers protections, policies and services within its jurisdiction that are in existence as of the effective date of this chapter to assist low-income retail gas customers to afford natural gas services.

Response

We believe the PGA misreads the statute at section 2206(a) of the act. The PGA apparently reads the statute to obligate the NGDCs to continue universal service at the same level. The language "at a minimum" as well as the language in section 2203(8) of the act, gives the Commission the authority to require and to expand universal service programs. In every electric and gas restructuring proceeding the Commission has exercised its statutory authority to ensure that universal service

programs are appropriately funded and available by either directing or approving settlement agreements that have substantially increased the size of universal service programs, particularly CAPs. The Commission has not increased the size of these programs without carefully examining the on-the-record needs assessment for each utility.

We also disagree that the statute does not require CAPs and LIURP. Sections 58.1—58.18 requires a utility to implement LIURP. The statute specifically includes CAPs. The General Assembly has mandated that the term universal service includes retail gas customer assistance programs and low-income usage reduction programs in section 2202 of the act. The statute gives the Commission explicit authority to oversee universal service programs. The General Assembly has also mandated that the Commission shall ensure that universal service programs are appropriately funded and available in each NGDC territory in section 2203(8) of the code.

Because NGDCs currently provide most of this information to the Commission, we believe costs should be minimal. However, universal service costs are no different from any other utility cost of doing business. Upon Commission review, any legitimate costs are recoverable.

IRRC requests the Commission to add a section that cross-references the requirements for petitioning for a waiver in § 5.43.

Response

Because a utility may always petition the Commission for a waiver under § 5.43, we decline to include it specifically in this regulation. Moreover, inclusion of a reference to § 5.43 in this chapter will threaten the availability of a waiver in other chapters of the code where § 5.43 is not expressly referenced.

Appendix

Universal service and Energy Conservation Programs

	<i>Due Date</i>	
<i>NGDC</i>	<i>Plan</i>	<i>Evaluation</i>
Columbia	6/1/2002	8/1/2004
Peoples	6/1/2002	8/1/2004
PECO *	2/28/2003	10/31/2008
Equitable	6/1/2003	8/1/2005
PG Energy	6/1/2003	8/1/2005
UGI	6/1/2004	8/1/2006
NFG	6/1/2004	8/1/2006

* The filing schedule for PECO corresponds with the filing schedule already established for PECO in the electric Reporting Requirements for Universal Service and Energy Conservation Programs at 52 Pa. Code, Chapter 54, §§ 54.71—54.76.

Accordingly, under section 501 of the Public Utility Code, and the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1201 et seq.) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we add §§ 62.1—62.8 to read as set forth in Annex A; *Therefore,*

It Is Ordered That:

1. The regulations at 52 Pa. Code are amended by adding §§ 62.1—62.8 to read as set forth in Annex A.
2. The BCS is directed, when appropriate, to eliminate and/or consolidate existing universal service program reports that address the same content as the reporting requirements in these regulations to comply with the Commission's intent to streamline universal service reporting requirements.

3. The Secretary shall submit a copy of this order and Annex A to the Office of Attorney General for review as to legality.

4. The Secretary shall submit a copy of this order and Annex A to the Governor's Budget Office for review of fiscal impact.

5. The Secretary shall submit this order and Annex A for formal review by the designated standing committees of both Houses of the General Assembly, and for formal review and approval by the IRRC.

6. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

7. This regulation shall become effective upon publication in the *Pennsylvania Bulletin*.

8. A copy of this order, Annex A and the Appendix shall be served upon all persons who submitted comments in this rulemaking proceeding.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 6020 (November 18, 2000).)

Fiscal Note: Fiscal Note 57-212 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 52. PUBLIC UTILITIES
PART I. PENNSYLVANIA PUBLIC
UTILITY COMMISSION**

Subpart C. FIXED UTILITIES

**CHAPTER 62. NATURAL GAS SUPPLY
CUSTOMER CHOICE**

**Subchapter A. UNIVERSAL SERVICE AND
ENERGY CONSERVATION REPORTING
REQUIREMENTS**

- Sec.
- 62.1. Statement of purpose and policy.
 - 62.2. Definitions.
 - 62.3. Universal service and energy conservation program goals.
 - 62.4. Universal service and energy conservation plans.
 - 62.5. Annual residential collection and universal service and energy conservation program reporting requirements.
 - 62.6. Evaluation reporting requirements.
 - 62.7. NGDCs with less than 100,000 residential accounts.
 - 62.8. Public information.

§ 62.1. Statement of purpose and policy.

The requirements of 66 Pa.C.S. § 2203(8) (relating to standards for restructuring of natural gas utility industry) mandate that the Commission ensure universal service and energy conservation policies, activities and services for residential natural gas customers are appropriately funded and available in each NGDC territory. This subchapter requires covered NGDCs to establish uniform reporting requirements for universal service and energy conservation policies, programs and protections and to report this information to the Commission.

§ 62.2. Definitions.

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

CAP benefits—The average CAP bill, average CAP credits and average arrearage forgiveness, as applicable.

CAP credits—The difference between the amount billed at the standard residential rate and the amount billed at the CAP rate.

CAP—Customer Assistance Program—An alternative collection method that provides payment assistance to low-income, payment troubled utility customers. CAP participants agree to make regular monthly payments that may be for an amount that is less than the current bill in exchange for continued provision of natural gas utility services.

CARES benefits—The number of referrals and number of customers accepted into CARES.

CARES—Customer Assistance and Referral Evaluation Services—A program that provides a cost-effective service that helps selected, payment-troubled customers maximize their ability to pay utility bills. A CARES program provides a casework approach to help customers secure energy assistance funds and other needed services.

Classification of accounts—Accounts are classified by the following categories: all residential accounts and confirmed low-income residential accounts.

Collection operating expenses—Expenses directly associated with collection of payments due for residential accounts.

Confirmed low-income residential account—Accounts where the NGDC has obtained information that would reasonably place the customer in a low-income designation. This information may include receipt of LIHEAP funds (Low-Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon rate-payer or occupant contact prior to termination).

Direct dollars—Dollars which are applied to a CARES customer's natural gas utility account, including all sources of energy assistance applied to utility bills such as LIHEAP, hardship fund grants, and local agencies' grants.

Energy assistance benefits—The total number and dollar amount of LIHEAP grants.

Hardship fund—A fund that provides cash assistance to utility customers to help them pay their utility bills.

Hardship fund benefits—The total number and dollar amount of cash benefits or bill credits.

Impact evaluation—An evaluation that focuses on the degree to which a program achieves the continuation of utility service to program participants at a reasonable cost level and otherwise meets program goals.

LIURP—Low-income Usage Reduction Program—An energy usage reduction program that helps low-income customers to conserve energy and reduce residential energy bills.

Low-income customer—A residential utility customer whose gross household income is at or below 150% of the Federal poverty guidelines. Gross household income does not include the value of food stamps or other noncash income.

NGDC—Natural gas distribution company—A natural gas distribution company as defined in 66 Pa.C.S. § 2202 (relating to definitions).

Outreach referral contacts—An address and telephone number that a customer would call or write to apply for

the hardship fund. Contact information should be specific to each county in the NGDC's service territory, if applicable.

Payment rate—The total number of full monthly payments received from CAP participants in a given period divided by the total number of monthly bills issued to CAP participants.

Payment troubled—A household that has failed to maintain one or more payment arrangements in a 1-year period.

Residential account in arrears—A residential account that is at least 30 days overdue. This classification includes all customer accounts that have payment arrangements.

Successful payment arrangements—A payment arrangement in which the agreed upon number of payments have been made in full in the preceding 12 months.

Universal service and energy conservation—The term as defined in 66 Pa.C.S. § 2202.

§ 62.3. Universal service and energy conservation program goals.

(a) The Commission will determine if the NGDC meets the goals of universal service and energy conservation programs.

(b) The general goals of universal service and energy conservation programs include the following:

(1) To protect consumers' health and safety by helping low-income customers maintain affordable natural gas service.

(2) To provide for affordable natural gas service by making available payment assistance to low-income customers.

(3) To help low-income customers conserve energy and reduce residential utility bills.

(4) To ensure universal service and energy conservation programs are operated in a cost-effective and efficient manner.

§ 62.4. Universal service and energy conservation plans.

(a) *Plan submission.*

(1) Each NGDC shall submit to the Commission for approval an updated universal service and energy conservation plan every 3 years beginning February 28, 2002, on a staggered schedule.

(2) The plan should cover the next 3-calendar years.

(3) The plan should state how it differs from the previously approved plan.

(4) The plan should include revisions based on analysis of program experiences and evaluations.

(5) The Commission will act on the plans within 90 days of the NGDC filing date.

(6) If the Commission rejects the plan, the NGDC shall submit a revised plan pursuant to the order rejecting or directing modification of the plan as previously filed. If the order rejecting the plan does not state a timeline, the NGDC shall file its revised plan within 45 days of the entry of the order.

(b) *Plan contents.* The components of universal service and energy conservation may include the following: CAP, LIURP, CARES, Hardship Funds and other programs, policies and protections. For each component of universal service and energy conservation, the plan shall include the following:

- (1) The program description that includes a description of the program rules for each program component.
- (2) The eligibility criteria for each program component.
- (3) The projected needs assessment for each program component and an explanation of how each program component responds to one or more identified needs. The needs assessment shall include the number of identified low-income customers and an estimate of low-income customers, the number of identified payment troubled, low-income customers, an estimate of payment troubled, low-income customers, the number of customers who still need LIURP services and the cost to serve that number, and the enrollment size of CAP to serve all eligible customers.
- (4) The projected enrollment levels for each program component.
- (5) The program budget for each program component.
- (6) The plans to use community-based organizations for each program component.
- (7) The organizational structure of staff responsible for universal service programs.
- (8) An explanation of any differences between the NGDC's approved plan and the implementation of that plan. If an NGDC has not implemented all of the provisions of an approved plan, the NGDC should provide a justification for that failure and plans for corrective action. If an NGDC is requesting approval of a revised plan, the NGDC should provide a justification of the revisions in its request for approval.
- (9) A description of outreach and intake efforts for each program component.
- (10) An identification of the specific steps used to identify low-income customers with arrears and to enroll them in appropriate universal service and energy conservation programs.
- (11) An identification of the manner in which universal service and energy conservation programs operate in an integrated fashion.

§ 62.5. Annual residential collection and universal service and energy conservation program reporting requirements.

(a) Each NGDC shall report annually to the Commission on the degree to which universal service and energy conservation programs within its service territory are available and appropriately funded. Annual NGDC reports shall contain information on programs and collections for the prior calendar year. Unless otherwise stated, the report shall be due April 1 each year, beginning April 1, 2003. When noted, the data shall be reported by classification of accounts. Each NGDC's report shall contain the following information:

- (1) *Collection reporting.* Collection reporting shall be categorized as follows:
 - (i) The total number of payment arrangements and the total number of successful payment arrangements. To ensure that successful payment arrangements are not overstated, NGDCs shall report on the calendar year prior to the reporting year.

(ii) Annual collection operating expenses by classification of accounts.

(iii) The total dollar amount of the gross residential write-offs and total dollar amount of the net residential write-offs, by classification of accounts.

(iv) The total number of residential customers by month for the 12 months covered by the report, by classification of accounts.

(v) The total dollar amount of annual residential revenues by classification of accounts.

(vi) The total number of residential accounts in arrears and on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(vii) The total number of residential accounts in arrears and not on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(viii) The total dollar amount of residential accounts in arrears and on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(ix) The total dollar amount of residential accounts in arrears and not on payment agreements by month for the 12 months covered by the report, by classification of accounts.

(x) The total number of residential customers who are payment troubled by month for the 12 months covered by the report, by classification of accounts.

(xi) The total number of terminations completed by month for the 12 months covered by the report, by classification of accounts.

(xii) The total number of reconnections by month for the 12 months covered by the report, by classification of accounts.

(xiii) The total number of low-income households. NGDCs may estimate this number using census data or other information the NGDC finds appropriate.

(2) *Program reporting.* Program reporting shall be categorized as follows:

(i) For each universal service and energy conservation component, program data shall include information on the following:

- (A) Program costs.
- (B) Program recipient demographics, including the number of household members under 18 years of age and 62 years of age or older, household size, income and source of income.
- (C) Participation levels by month for the 12 months covered by the report.
- (D) The number of program participants by source of intake.
- (E) The number of program participants participating in two or more of the NGDC's universal service and energy conservation programs, broken down by program component.

(ii) Additional program data for individual universal service and energy conservation components shall include the following information:

(A) *LIURP reporting requirements.* As established in § 58.15 (relating to program evaluation).

(I) *LIURP reporting data.* Due annually by April 30.

(II) *Actual number of completed jobs and spending data.* Actual number of completed jobs and spending data for the recently completed program year and projections for the current year shall be due annually by April 1.

(B) *CAP.*

- (I) Energy assistance benefits.
- (II) Average CAP bills.
- (III) Payment rate.
- (IV) CAP benefits.
- (V) Total cash payments by CAP customers.
- (VI) Number of full, on-time payments.
- (VII) Percentage of CAP bill paid by customer.

(C) *CARES.*

- (I) Energy assistance benefits.
- (II) Direct dollars applied to CARES accounts.
- (III) CARES benefits.
- (D) *Hardship funds.*
 - (I) Ratepayer contributions.
 - (II) Special contributions, other than shareholder or ratepayer contributions.
 - (III) Utility contributions.
 - (IV) Outreach contacts.
 - (V) Hardship fund benefits.

§ 62.6. Evaluation reporting requirements.

(a) Each NGDC shall select, after conferring with the Commission's Bureau of Consumer Services, an independent third-party to conduct an impact evaluation of its universal service and energy conservation programs and to provide a report of findings and recommendations to the Commission and NGDC.

(b) The first impact evaluation will be due beginning August 1, 2004, on a staggered schedule. Subsequent evaluation reports shall be presented to the NGDC and the Commission at no more than 6-year intervals.

(c) To ensure an independent evaluation, neither the NGDC nor the Commission shall exercise control over recommendations contained in the independent evaluation report. The NGDCs may provide the Commission with a companion report that expresses where they agree or disagree with independent evaluation report content or recommendations.

§ 62.7. NGDCs with less than 100,000 residential accounts.

(a) Beginning June 1, 2003, each NGDC with less than 100,000 accounts shall report to the Commission every 3 years the following information in lieu of the requirements in §§ 62.4—62.6 (relating to universal service and energy conservation plans; annual residential collection and universal service and energy conservation program reporting requirements; and evaluation reporting requirements):

- (1) The universal service and energy conservation plan.
- (2) Expenses associated with low-income customers.
- (3) A description of the universal service and energy conservation services provided to low-income residential customers.
- (4) Number of services or benefits provided to low-income residential customers.
- (5) Dollar amount of services or benefits provided to low-income residential customers.

§ 62.8. Public information

The Commission will annually produce a summary report on the universal service performance of each NGDC using the statistics collected as a result of these reporting requirements. The reports will be public information. The Commission will provide the reports to any interested party and post the reports on the Commission's Internet website.

[Pa.B. Doc. No. 00-2161. Filed for public inspection December 15, 2000, 9:00 a.m.]