

CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE

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Cross References

This chapter is cited in 52 Pa. Code § 111.5 (relating to agent training); 52 Pa. Code § 111.9 (relating to door-to-door sales); and 52 Pa. Code § 111.10 (relating to telemarketing).

Subchapter A. UNIVERSAL SERVICE AND ENERGY CONSERVATION REPORTING REQUIREMENTS

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Authority

The provisions of this Subchapter A issued under the Natural Gas Choice and Competition Act, 66 Pa.C.S. § 2203(8), unless otherwise noted.

Source

The provisions of this Subchapter A adopted December 15, 2000, effective December 16, 2000, 30 Pa.B. 6430, unless otherwise noted.

§ 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.

Cross References

This section cited in 52 Pa. Code Chapter 56 Appendix C (relating to definitions (§ 56.231)).

§ 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.

Cross References

This section cited in 52 Pa. Code § 62.7 (relating to NGDCs with less than 100,000 residential accounts).

§ 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.

Cross References

This section cited in 52 Pa. Code § 62.7 (relating to NGDCs with less than 100,000 residential accounts).

§ 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.

Cross References

This section cited in 52 Pa. Code § 62.7 (relating to NGDCs with less than 100,000 residential accounts); and 52 Pa. Code § 69.265 (relating to CAP design elements).

§ 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.

Subchapter B. REPORTING REQUIREMENTS FOR QUALITY OF SERVICE BENCHMARKS AND STANDARDS

See.

- 62.31. Purpose.
- 62.32. Definitions.
- 62.33. Reporting requirements.
- 62.34. Customer surveys.
- 62.35. NGDCs with fewer than 100,000 residential accounts.
- 62.36. Informal complaints to the BCS.
- 62.37. Public information.

Authority

The provisions of this Subchapter B issued under the Natural Gas Choice and Competition Act, 66 Pa.C.S. § 2206(a), unless otherwise noted.

Source

The provisions of this Subchapter B adopted December 8, 2000, effective December 9, 2000, 30 Pa.B. 6346, unless otherwise noted.

§ 62.31. Purpose.

(a) This subchapter establishes a means by which the Commission can develop uniform measurement and reporting to assure that the customer services of the NGDCs that are required to file restructuring plans under the act are maintained, at a minimum, at the same level of quality under retail competition.

(b) This subchapter sets forth uniform measurements and reporting requirements for monitoring the level of the customer service performance of two separate classes of these NGDCs:

- (1) NGDCs serving more than 100,000 residential customers.
- (2) Those NGDCs serving less than 100,000 residential customers.

(c) This subchapter also establishes the effective dates of the reporting requirements.

§ 62.32. Definitions.

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

Act—Chapter 22 of 66 Pa.C.S. (relating to the natural gas choice and competition act).

BCS—Bureau of Consumer Services of the Commission.

Busy-out rate—The number of calls to an NGDC's call center or business office that received a busy signal divided by the number of calls that were received.

Call center—A centralized facility established by a utility for transactions concerning installation and repair of service, billing and other inquiries between residential and small commercial customers and NGDCs representatives, but not including special purpose call centers established to respond to service emergencies and operating for a temporary period of time.

Call abandonment rate—The number of calls to an NGDC's call center or business office that were abandoned divided by the total number of calls received.

Customer—A retail gas customer as defined in section 2202 of the act (relating to definitions).

Informal consumer complaint—An appeal by a consumer to the BCS about a utility's proposed resolution of a dispute related to billing, service delivery, repairs and all other issues not related to requests for payment arrangements.

Informally verified infraction—An apparent misapplication of Commission regulations as determined by the BCS through its examination of information obtained as part of its review of informal consumer complaints and payment arrangement requests.

(i) The informal verification process implemented by the BCS notifies a utility of the information which forms the basis of an alleged infraction, affords the utility the opportunity to affirm or deny the accuracy of the information and concludes with a BCS determination regarding the alleged infraction.

(ii) An informally verified infraction is not equivalent to a formal violation under 66 Pa.C.S. § 3301 (relating to civil penalties for violations) unless otherwise determined through applicable Commission procedures.

Infraction—A misapplication of a Commission regulation, particularly the standards and billing practices for residential service.

Infraction rate—The number of informally verified infractions, as determined by the BCS, per 1,000 residential customers.

Justified informal consumer complaint—A complaint where the BCS has determined that an NGDC did not follow Commission procedures or regulations.

Justified informal consumer complaint rate—The number of justified informal, residential consumer complaints, as determined by the BCS, per 1,000 residential customers.

Justified payment arrangement request—A payment arrangement request where an NGDC did not follow Commission negotiation procedures or regulations.

Justified payment arrangement request rate—The number of justified payment arrangement requests, as determined by the BCS, from residential customers per 1,000 residential customers.

NGDC—Natural gas distribution company.

Payment arrangement request—A customer request for payment terms to the BCS.

Promptness—The state or condition of acting or responding with speed or readiness to a customer's question, complaint, dispute or request. An example of promptness might be the NGDC responding to a customer's request for a premise visit with an appointment in 5 days rather than in 5 weeks.

Small business customer—A person, sole proprietorship, partnership, corporation, association or other business whose annual gas consumption does not exceed 300 Mcf.

Timeliness—The state or condition of acting at the appropriate or correct time as previously determined or promised when responding to a customer's question, complaint, dispute or request. An example of timeliness might be an NGDC representative arriving at the customer's residence on the date and at the time previously agreed upon by the NGDC and the customer.

Transaction survey—A survey targeted toward individuals that have had a recent interaction with an NGDC.

§ 62.33. Reporting requirements.

(a) *Report deadlines.*

(1) Unless otherwise specified in this subchapter, each covered NGDC shall file its first report with the Commission on or before August 1, 2001. The August report shall contain data, reported by month, from the first 6 months of the calendar year, as well as a 6-month cumulative average.

(2) Each NGDC shall file its second report on or before February 1, 2002. The February report shall contain data, reported by month, from the second 6 months of the year as well as a 6-month cumulative average and a 12-month cumulative average for the preceding calendar year.

(3) Thereafter, the NGDCs shall file reports annually with the Secretary of the Commission on or before February 1.

(4) Each report shall contain data, reported by month, as well as a 12-month cumulative average for the preceding calendar year.

(5) Each report shall include the name and telephone number of the utility contact person responsible for the report.

(b) *Recordkeeping.* Each NGDC shall report the following data to the Commission:

(1) *Telephone access.*

(i) The percentage of calls answered at each NGDC's call center within 30 seconds with the NGDC representative ready to render assistance and to accept information necessary to process the call. An acknowledgment that the customer or applicant is waiting on the line does not constitute an answer.

(ii) The average busy-out rate for each call center. If the NGDC reports data for more than one call center, the NGDC should also provide the combined busy-out rate for the NGDC as a whole.

(iii) The call abandonment rate for each call center. If the NGDC reports data for more than one call center, the NGDC should also provide the combined call abandonment rate for the NGDC as a whole.

(2) *Billing.*

(i) The number and percent of residential bills that the NGDC failed to render once every billing period to residential ratepayers under § 56.11 (relating to billing frequency).

(ii) The number and percent of bills that the NGDC failed to render once every billing period to small business customers.

(3) *Meter reading.*

(i) The number and percent of residential meters for which the company has failed to obtain an actual or ratepayer supplied reading within the past 6 months to verify the accuracy of estimated readings under § 56.12(4)(ii) (relating to meter reading; estimated billing; or ratepayer readings).

(ii) The number and percent of residential meters for which the company has failed to obtain an actual meter reading within the past 12 months to verify the accuracy of the readings, either estimated or ratepayer read under § 56.12(4)(iii).

(iii) The number and percent of residential remote meters for which it has failed to obtain an actual meter reading at least once every 5 years to verify the accuracy of the remote reading device under § 56.12(5)(i).

(4) *Response to disputes.* The actual number of disputes as described in Chapter 56, Subchapter F (relating to disputes; termination disputes; informal and formal complaints) for which the company did not provide a response to the complaining party within 30 days of the initiation of the dispute under § 56.151(5) (relating to general rule).

(c) *Comparison.* Each NGDC report to the Commission shall contain an analysis and comparison of the quality of service data in each performance area during the most recent report period with its previous service quality in these areas.

Cross References

This section cited in 52 Pa. Code § 62.35 (relating to NGDCs with fewer than 100,000 residential accounts).

§ 62.34. Customer surveys.

Each NGDC shall report to the Commission the results of telephone transaction surveys of customers who have had interactions with the NGDC.

(1) *Purpose.* The purpose of the transaction surveys shall be to assess the customer perception regarding the most recent interaction with the NGDC. Survey questions shall measure access to the utility, employee courtesy, employee knowledge, promptness of NGDC response or visit, timeliness of the NGDC response or visit and satisfaction with the handling of the interaction.

(2) *Questions.* The transaction survey questions shall specifically address the circumstances that generated the most recent transaction. Interaction categories shall include the following:

- (i) Credit/collection.
- (ii) Billing.
- (iii) Reliability and safety.
- (iv) Service installation and application.
- (v) Service disconnection.
- (vi) Other similar interactions.

(3) *Uniform data.* The NGDCs shall carry out the transaction survey process using survey questionnaires, sample selection procedures, methods of conducting the surveys and any other procedures associated with the survey to provide the Commission with uniform data that can be used to directly compare customer service performance among NGDCs in this Commonwealth.

(4) *Timely response.* A customer or consumer being surveyed shall be contacted within 30 days of the date that the interaction with the NGDC took place.

(5) *Sampling plan.* The sampling plan shall be designed so that the results are statistically valid within plus or minus 5 percentage points.

(6) *Commission approval.* On or before December 1, 2001, the Commission will approve the survey questionnaire, as well as procedures for case selection, sampling, conducting the survey, analyzing results and reporting to the Commission.

(7) *Timetable.*

(i) The first report on survey results shall be submitted to the Commission on or before October 1, 2002. The October report shall contain survey results, reported by month, from the first 6 months of the calendar year.

(ii) The second report shall be submitted on or before April 1, 2003. The April report shall contain results, reported by month, from the second 6 months of the previous year as well as cumulative 12-month results.

(iii) Thereafter, the NGDC shall submit survey results annually, on or before April 1.

(iv) Each annual report shall contain results reported by month as well as cumulative 12-month results.

Cross References

This section cited in 52 Pa. Code § 62.35 (relating to NGDCs with fewer than 100,000 residential accounts).

§ 62.35. NGDCs with fewer than 100,000 residential accounts.

Beginning September 1, 2002, each NGDC with less than 100,000 residential accounts shall report to the Commission the following information in lieu of §§ 62.33 and 62.34 (relating to reporting requirements; and customer surveys):

(1) The results of a mail survey of a sample of the NGDC customers who have had interactions with a representative of the NGDC. The survey sample shall consist of every 10th consumer who has contacted the company.

(2) The mail survey shall address the circumstances that generated the customer/company transaction

(3) Each NGDC shall use the same mail survey questionnaire which shall be developed by the BCS with advice from the relevant NGDCs. The mail survey questions shall measure customer perceptions regarding:

- (i) Access to the utility.
- (ii) Employee courtesy.
- (iii) Employee knowledge.
- (iv) Promptness and timeliness of the utility representative response.
- (v) Satisfaction with the NGDC representative's handling of the interaction.

(4) The mail survey questionnaire shall be mailed to a customer within 30 days of the date that the transaction took place.

(5) The first report on survey results shall be submitted to the Commission on or before September 1, 2002. The September report shall contain survey results from the first 6 months of the calendar year.

(6) The second report shall be submitted on or before March 1, 2003, and shall contain survey results from the second 6 months of the calendar year.

(7) Thereafter, the NGDC shall submit survey results annually, on or before March 1.

§ 62.36. Informal complaints to the BCS.

(a) The BCS will review and analyze residential informal consumer complaints and payment arrangement requests filed with the Commission and will report the justified informal consumer complaint rate and the justified payment arrangement request rate for each NGDC with more than 100,00 residential accounts to the Commission on an annual basis.

(b) The BCS will report to the Commission the number of informally verified infractions of applicable statutes and regulations relating to the treatment of residential accounts by each NGDC with more than 100,000 residential accounts. The BCS will calculate and report to the Commission an infraction rate for each NGDC with more than 100,000 residential accounts.

§ 62.37. Public information.

The Commission will annually produce a summary report on the customer service performance of each covered 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 World Wide Website.

Subchapter C. CUSTOMER INFORMATION DISCLOSURE

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

Authority

The provisions of this Subchapter C issued under the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2205(c) and 2206(c), unless otherwise noted.

Source

The provisions of this Subchapter C adopted April 13, 2001, effective April 14, 2001, 31 Pa.B. 2005, unless otherwise noted.

§ 62.71. Purpose.

(a) The purpose of this subchapter is to require that all natural gas providers enable customers to make informed choices regarding the purchase of all natural gas services offered by providing adequate and accurate customer information. Information shall be provided to customers in an understandable format that enables customers to compare prices and services on a uniform basis.

(b) As to the scope of this subchapter, this section and §§ 62.72 and 62.73 (relating to definitions; and standards and pricing practices for retail natural gas service) apply to all customers, including large commercial and industrial customers. Sections 62.74—62.79 apply only to residential and small business customers, as defined in § 62.72. Section 62.80 (relating to common natural gas competition terms) applies as described in § 62.73(4).

Cross References

This section cited in 52 Pa. Code § 62.224 (relating to POR programs).

§ 62.72. Definitions.

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

Basic services—Services necessary for the physical delivery of natural gas to a retail customer, consisting of natural gas distribution services and natural gas supply services.

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

City gate—The point where interstate pipelines deliver gas into NGDC facilities.

Commission—The Pennsylvania Public Utility Commission.

Commodity charges or *natural gas supply charges*—Basic service charges for natural gas supply services to retail customers, excluding charges for natural gas distribution services.

Consumer—A retail gas customer.

Customer—A person that buys retail natural gas.

Customer information—Written, oral or electronic communications used by natural gas providers to communicate to consumers prices and terms of service.

Disclosure statement—The written disclosure of the terms of service between an NGS and a customer which satisfies the definition of “consumer contract” in section 3 of the Plain Language Consumer Contract Act (73 P.S. § 2203).

Disclosure statement prices—The disclosed NGS prices in the disclosure statement.

Distribution charges—Basic service charges for the delivery of natural gas to a retail customer from the point of receipt into the NGDC’s distribution system. These charges include basic service under § 56.15(4) (relating to billing information) and universal service, as applicable.

Efficiency information—The existing NGDC efficiency information included in the NGDC’s consumer education program.

Historical billing data—The minimum of 12 months of data as recorded by the NGDC, which contains usage data and dollar amount billed, unless 12 months of this data is not available, in which case the NGDC shall provide as much billing data as available. This data is thousand cubic feet (Mcf), hundred cubic feet (ccf) or dekatherms (Dth) consumption at some prescribed interval of consumption and associated cost.

Marketed prices—The disclosed prices on NGS marketing customer information.

NGDC—*Natural gas distribution company*—A public utility or city natural gas distribution operation that provides natural gas distribution services and

which may provide natural gas supply services and other services. For purposes of this subchapter, the term does not include the following:

(i) Any public utility subject to the jurisdiction of the Commission which has annual gas operating revenues of less than \$6 million per year, except when the public utility voluntarily petitions the Commission to be included within this definition or when the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory.

(ii) A natural gas public utility subject to the jurisdiction of the Commission that is not interconnected to an interstate gas pipeline by means of a direct connection or an indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

NGS—Natural gas supplier—An entity other than an NGDC, but including NGDC marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of an NGDC.

(i) The term includes an NGDC that provides natural gas supply services outside its certificate service territories.

(ii) The term includes a municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply services to retail customers located outside of its corporate or municipal limits, as applicable, other than the following:

(A) As provided prior to July 1, 1999, the effective date of 66 Pa.C.S. Chapter 22 (relating to Natural Gas Choice and Competition Act), under a certificate of public convenience if required under 66 Pa.C.S. (relating to Public Utility Code).

(B) The total natural gas supply services in de minimis amounts.

(C) Natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided.

(D) Natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law independent of 66 Pa.C.S. Chapter 22.

(iii) The term excludes an entity to the extent that it provides free gas to end-users under the terms of an oil or gas lease. Notwithstanding any other provision of this title, an NGS that is not an NGDC is not a public utility as defined in 66 Pa.C.S. § 102 (relating to definitions) to the extent that the NGS is utilizing the jurisdictional distribution facilities of an NGDC or is providing other services authorized by the Commission.

Natural gas distribution service—The delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of the NGDC.

Natural gas providers—The term refers collectively to the NGDC, NGS, marketer, aggregator or broker, or both, as well as any third party acting on behalf of these entities.

Natural gas supply charges or commodity charges—Basic service charges for natural gas supply services to retail customers, excluding charges for natural gas distribution services.

Natural gas supply services—

(i) The term includes the following:

(A) The sale or arrangement of the sale of natural gas to retail customers.

(B) Services that may be unbundled by the Commission under 66 Pa.C.S. § 2203(3) (relating to standards for restructuring of natural gas utility industry).

(ii) The term does not include distribution service.

Nonbasic services—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of natural gas service. Examples include a gas line repair program and a gas appliance warranty program.

Retail gas customer—A direct purchaser of natural gas supply services or natural gas distribution services, other than an NGS. The term excludes an occupant of a building or facility where the owner/operators manage the internal distribution system serving the building or facility and supply natural gas and other related services to occupants of the building or facility; where the owners/operators are direct purchasers of natural gas supply service; and when the occupants are not direct purchasers.

Small business customer—This term refers to a person, sole proprietorship, partnership, corporation, association or other business entity that receives natural gas service under a small commercial, small industrial or small business rate classification, and whose aggregate maximum registered annual consumption with the NGDC was less than 300 Mcfs, or equivalent, over the last 12 months.

Source

The provisions of this § 62.72 amended August 12, 2016, effective August 13, 2016, 46 Pa.B. 4959. Immediately preceding text appears at serial pages (360919) to (360921).

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); 52 Pa. Code § 62.73 (relating to standards and pricing practices for retail natural gas service); 52 Pa. Code § 62.222 (relating to definitions); and 52 Pa. Code § 62.224 (relating to POR programs).

§ 62.73. Standards and pricing practices for retail natural gas service.

In furnishing retail natural gas service, NGDCs and NGSs or any entity that otherwise provides retail natural gas service information to customers, shall comply with the following:

(1) Use common and consistent terminology in customer communications, including marketing, billing and disclosure statements and use the standard pricing unit of the NGDC. The three standard pricing units that are currently used by NGDCs are ccfs, Mcfs and Dths.

(2) Use the term NGDC as described in § 62.72 (relating to definitions) as a standard term.

(3) Use the terms as defined in the Commission's "Consumer's Dictionary for Natural Gas Competition" (Dictionary), maintained on file in the Commission's Office of Communications. NGDCs shall provide this Dictionary upon customer request, and the "Common Natural Gas Competition Terms" as described in paragraph (4) shall indicate the phone number and address of the NGDC to request the Dictionary.

(4) Each NGDC will distribute the "Common Natural Gas Competition Terms," found in § 62.80 (relating to common natural gas competition terms), as part of its consumer education program, as a bill insert or in a separate mailing once per year for the life of the NGDC's choice education campaign, which is mandated in 66 Pa.C.S. § 2206(d) (relating to consumer protections and customer service).

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); and 52 Pa. Code § 62.224 (relating to POR programs).

§ 62.74. Bill format for residential and small business customers.

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

(b) The following requirements apply only to the extent to which an entity has responsibility for billing customers, and to the extent that the charges are applicable. Duplication of billing for the same or identical charges by both the NGDC and NGS is not permitted.

(1) NGDC charges shall appear separately from NGS charges.

(2) Charges for basic services shall appear before charges for nonbasic services, and appear distinctly separate.

(3) Customer bills shall contain the following charges, if these charges are applicable, and these charges shall appear in a distinct section of the bill. The designation or label of each charge as either a basic charge or nonbasic charge appears in parentheses following the name of the charge. This label of either basic or nonbasic is not required to accompany the name of the charge on the bill.

(i) Commodity charges (basic).

(A) Commodity charges shall be presented in the standard pricing unit for natural gas of the NGDC in actual dollars or cents per standard pricing unit or actual average dollars or cents per standard pricing unit.

- (B) Commodity charges shall appear first among the basic charges with one exception. NGDCs may place the customer charge first among the basic charges.
- (ii) Distribution charges (basic).
 - (iii) Customer charge or basic charge (charge for basic service in § 56.15 (relating to billing information)) (basic).
 - (iv) Gas cost adjustment charges (basic).
 - (v) Interstate transition cost surcharges (basic).
 - (vi) Taxes (Comply with § 56.15) (basic).
 - (vii) Late payment charges (basic).
 - (viii) Security deposit (basic).
 - (ix) Reconnection fee (basic).
 - (x) Itemization of nonbasic charges (nonbasic).
 - (xi) Overall billing total.
- (4) The entity reading the meter for billing purposes shall provide the following natural gas use data figures:
- (i) The total annual natural gas use for the past 12 months in the standard pricing unit of the NGDC including the current billing cycle. This is a single cumulative number.
 - (ii) The average monthly natural gas use for the past 12 months in the standard pricing unit of the NGDC including the current billing cycle. This is a single cumulative number.
- (5) The requirements of § 56.15 shall be incorporated in customer bills to the extent that § 56.15 applies.
- (6) Definitions for the following charges and terms are required in a customer's bill, if they appear as billing items, as contained in § 62.80 (relating to common natural gas competition terms), and shall be in a distinctly separate section of the bill:
- (i) Commodity charges.
 - (ii) Distribution charges.
 - (iii) Customer charge/basic charge (charge for basic service in § 56.15).
 - (iv) Gas cost adjustment charges.
 - (v) The standard pricing unit of the NGDC, either, ccf, Mcf or Dth.
- (7) "General Information" is the required title for customer contact information in a customer's bill.
- (i) The name, address, telephone number and Internet address for the NGS and NGDC shall be included.
 - (ii) Both NGDC and NGS information in subparagraph (i) is required on all customer bills with the billing entity's information first.
- (8) When a customer chooses the option to receive a separate bill for competitive natural gas supply, the NGDC shall include in a customer's bill the following information where the NGS charges would normally appear:
- (i) The NGS's name.

- (ii) A statement that the customer's NGS is responsible for the billing of NGS charges.
- (9) When a customer chooses the option to receive a single bill from the NGDC, the NGDC shall include in the customer's bill the name of the NGS where the NGS charges appear.
- (10) For customers who have chosen to receive gas supply from a competitive supplier, the customer's bill shall include the following statements which may appear together in a paragraph:
 - (i) "Commodity prices and charges are set by the natural gas supplier you have chosen."
 - (ii) "The Public Utility Commission regulates distribution prices and services."
- (c) The billing entity shall provide samples of customer bills to the Commission for review prior to issuance to customers.

Cross References

This section cited in 52 Pa. Code § 56.15 (relating to billing information); 52 Pa. Code § 56.262 (relating to billing information); 52 Pa. Code § 56.265 (relating to billing information); 52 Pa. Code § 62.71 (relating to purpose); and 52 Pa. Code § 62.224 (relating to POR programs).

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

- (a) The disclosure statement prices must reflect the marketed prices and the billed prices.
- (b) The NGS shall provide the customer a written disclosure statement containing the terms of service at no charge whenever:
 - (1) The customer requests that an NGS initiate service.
 - (2) The NGS proposes to change the terms of service.
- (c) The disclosure statement's terms of service shall be disclosed, including the following terms and conditions, if applicable:
 - (1) Commodity charges shall be disclosed according to the actual prices and be presented in the standard pricing unit of the NGDC or other Commission-approved standard pricing unit. Commodity charges must include estimated total state taxes. Commodity charges exclude State sales tax and county tax.
 - (2) The variable pricing statement (if applicable) must include:
 - (i) Conditions of variability (state on what basis prices will vary) including the NGS's specific prescribed variable pricing methodology.
 - (ii) The starting price and the ceiling price, if the ceiling price is applicable. If the price is introductory, the variable pricing statement must include a statement that the price is an introductory price, the duration of the introductory period and the price for the first billing cycle after the introductory period.

- (iii) If there is not a limit on price variability, the NGS shall provide a clear and conspicuous statement that there is not a limit on how much the price may change from one billing cycle to the next.
 - (iv) A description of when and how the customer will receive notification of price changes.
 - (v) A telephone number and Internet address at which a customer may obtain the previous 24 months' average monthly billed prices for that customer's rate class and NGDC service territory. If an NGS has not been providing service in a rate class and NGDC service territory for 24 months, the NGS shall provide the average monthly billed prices for the months available to date. If price history or representative price information is not available for the product, the NGS shall inform the customer of this fact.
 - (vi) In plain language, a statement that historical pricing is not indicative of present or future pricing.
- (3) An itemization of basic and nonbasic charges distinctly separate and clearly labeled.
 - (4) The length of the agreement, which includes:
 - (i) The starting date.
 - (ii) The expiration date, if applicable.
 - (5) An explanation of sign-up bonuses, add-ons, limited time offers, other sales promotions and exclusions, if applicable.
 - (6) An explanation of prices, terms and conditions for special services, if applicable.
 - (7) The cancellation provisions, if applicable.
 - (8) The renewal provisions, if applicable.
 - (9) An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service. Penalties shall be disclosed in actual dollars or a specific method for determining the actual dollars shall be disclosed.
 - (10) Customer contact information that includes the name of the NGS, the NGS's address, telephone number, Commission license number and Internet address, if available.
 - (11) A statement providing that information about shopping for a gas supplier is available at www.PaGasSwitch.com or other successor media platform as determined by the Commission, by calling the Commission at (800) 692-7380 and at www.oca.state.pa.us.
- (d) Customers shall be provided a 3-day right of rescission period following receipt of the disclosure statement from the NGS.
 - (1) The 3-day right of rescission is 3 business days.
 - (2) The 3-day right of rescission begins when the customer receives the disclosure statement from the NGS.
 - (3) The customer may cancel in writing, orally or electronically, if available, by contacting the NGS.

- (4) Waivers of the 3-day right of rescission are not permitted.
- (e) The definition for commodity charges is required on natural gas disclosure statements and must be defined in accordance with § 62.80 (relating to common natural gas competition terms). Definitions for other basic charges, if applicable, are required. Definitions for each of the nonbasic services, if applicable, are required. The definition section of the bill must be distinctly separate.
- (f) The NGS shall include in the customer's disclosure statement the following statements which may appear together in a paragraph:
- (1) "Commodity prices and charges are set by the natural gas supplier you have chosen."
 - (2) "The Public Utility Commission regulates distribution prices and services."
- (g) Disclosure statements must include the following customer notification:
- "If you have a fixed duration contract approaching the expiration date, or whenever we propose to change the terms of service, you will receive two separate written notifications, the first approximately 60 to 75 days in advance and the second 45 days in advance of either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward."
- (h) If the supplier of last resort changes, the new supplier of last resort shall notify customers of that change, and shall provide customers with the name, address, telephone number and Internet address, if available.
- (i) The NGS shall provide, with the disclosure statement, a separate NGS contract summary in a format provided by the Commission.
- (j) If the contract is assignable, the NGS shall inform the customer at the time the parties enter into the contract. Prior to a contract assignment, the NGS shall provide notice to the affected customer, the affected NGDC and the Commission. The customer notice must include the name of the new NGS, the contact information for the new NGS and language informing the customer that contract terms and conditions remain unchanged.

Source

The provisions of this § 62.75 amended August 12, 2016, effective August 13, 2016, 46 Pa.B. 4959. Immediately preceding text appears at serial pages (360924) and (367205) to (367206).

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); 52 Pa. Code § 62.81 (relating to notice of contract expiration or change in terms for residential and small business customers); 52 Pa. Code § 62.224 (relating to POR programs); 52 Pa. Code § 111.2 (relating to definitions); 52 Pa. Code § 111.7 (relating to customer authorization to transfer account; transaction; verification; documentation); 52 Pa. Code § 111.11 (relating to receipt of disclosure statement and right to rescind transaction); and 52 Pa. Code § 111.12 (relating to consumer protection).

§ 62.76. Request for information.

(a) Natural gas providers shall respond to reasonable customer requests for efficiency information by indicating that these materials are available upon request from the Commission or the NGDC.

(b) Residential and small business customers, upon request from the customer, are entitled to receive at no charge and at least once a year, historical billing data from whomever reads the meter for billing purposes. If the customer is receiving competitive natural gas supply service from an NGS, and receiving a separate bill from the NGS, the NGS will provide dollar amounts billed.

(1) The NGDC is only obligated to provide information that is readily available in its billing system.

(2) The historical billing data shall be conveyed in terms of the NGDC's standard pricing unit, for example, ccfs, Mcfs or Dths, and associated charges for the current billing period and for the year preceding the current billing period.

(3) The historical billing data will be updated with each billing cycle.

(c) Natural gas providers shall notify consumers not less than once per year either in advertising materials, disclosure statements or bills that efficiency information and historical billing data is available upon request.

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); and 52 Pa. Code § 62.224 (relating to POR programs).

§ 62.77. Marketing/sales activities.

(a) An NGS's marketed prices shall reflect disclosure statement prices and billed prices and shall be presented in the standard pricing unit of the NGDC.

(b) An NGS's marketing materials that offer terms of service in a disclosure statement for acceptance by customers shall include prices, as follows:

(1) If using a fixed price, the NGS shall show charges for supply service in the standard pricing unit of the NGDC at monthly usage levels equivalent to 15, 80 and 120 ccfs of natural gas in a table format.

(2) If using a variable price mechanism, the NGS shall factor in all costs associated with the rate charged to the customer for supply service, and show the starting price and ceiling price for supply service, if the ceiling price is applicable, in the standard pricing unit of the NGDC at monthly usage levels equivalent to 15, 80 and 120 ccfs of natural gas, in a table format.

(3) The NGS shall note the effective date of the prices shown in the table provided under paragraph (1) or (2) and if the prices are a limited time offer, the NGS shall note the expiration date of the limited time offer.

(c) Advertising materials targeted for residential and small business sales shall be made available upon request of the Commission.

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); and 52 Pa. Code § 62.224 (relating to POR programs).

§ 62.78. Privacy of customer information.

(a) An NGDC or NGS may not release private customer information to a third party unless the customer has been notified of this intent and has been given a convenient method, consistent with subsection (b), of notifying the entity of the customer's desire to restrict the release of the private information. If the customer does not choose to restrict the release of one of the two restriction options in paragraphs (1) and (2), all of the customer's private information may be released to a third party except for the telephone number. If the customer chooses to restrict the release of private customer information, the customer may restrict information released according to one of the following two restriction options:

(1) Restrict the release of only the customer's historical billing data in the NGDC's standard pricing unit, that is, as denominated by the NGDC.

(2) Restrict the release of all private customer information including name, billing address, service address, rate class, rate subclass, account number and historical billing data in the NGDC's standard pricing unit, that is, as denominated by the NGDC.

(b) Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, or by oral or electronic communication.

(c) Nothing in this section prohibits the NGS and NGDC from performing their mandatory obligations to provide natural gas service as specified in the disclosure statement and in 66 Pa.C.S. (relating to the Public Utility Code).

(d) Telephone numbers may not be released to third parties.

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); 52 Pa. Code § 62.142 (relating to standards of conduct); and 52 Pa. Code § 62.224 (relating to POR programs).

§ 62.79. Complaint handling process.

NGDCs and NGSs shall disclose to customers the following with respect to the rights of customers in the handling and resolution of complaints:

(1) Residential and small business customers shall directly contact the party responsible for the service in question as an initial step for complaint and problem resolution. If the customer mistakenly contacts the wrong entity, the customer shall be promptly referred to the appropriate contact. In the event of an unexpected loss of firm gas service, the customer shall be directed to the NGDC.

(2) Complaints that pertain to Chapter 56 (relating to standards and billing practices for residential utility service) matters shall be handled and resolved in accordance with the standards in Chapter 56.

(3) NGDCs and NGSs shall give the Commission access to disclosure statements, billing and other customer information resources for compliance reviews as deemed necessary by the Commission. When complaints arise and are brought before the Commission for resolution, the obligation of the NGS shall be extended to the provision of pricing information.

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); 52 Pa. Code § 62.224 (relating to POR programs); and 52 Pa. Code § 111.13 (relating to customer complaints).

§ 62.80. Common natural gas competition terms.

The following are common natural gas competition terms:

Burner tip—The point at which natural gas is used such as a furnace, water heater or range.

Ccf—100 cubic feet of gas. This is a measure of gas usage.

Chapter 56—The PUC regulations that govern metering, billing and collections for residential gas and electricity service.

City gate—The point where interstate pipelines deliver gas into NGDC facilities.

Commodity charges—The charges for basic gas supply service which is sold either by volume (ccf or Mcf) or heating value (dekatherms).

Customer charge—A monthly charge to cover NGDC costs such as maintaining the gas lines, meter reading and billing.

Distribution charges—The charges for the delivery of natural gas from the point of receipt into the NGDC's system.

Dth (Dekatherm)—A measure of the heat content value of gas. Gas usage is determined by multiplying the Mcf used by the heat content value of the gas.

Gas cost adjustment charges—The amount billed or credited each month to account for differences between projected and actual gas supply costs of the NGDC.

Mcf—1,000 cubic feet of gas. This is a measure of gas usage.

NGDC—Natural gas distribution company—A state regulated natural gas utility which owns the gas lines and equipment necessary to deliver natural gas to the consumer. (Formerly called local distribution company)

NGS—Natural gas supplier—An entity that sells or arranges to sell natural gas to customers that is delivered through the distribution lines of an NGDC.

PUC—Pennsylvania Public Utility Commission—The State regulatory agency that provides oversight, policy guidance and direction to public utilities and suppliers.

Price to compare—The dollar amount charged by the NGDC used by consumers to compare prices and potential savings with other NGSs.

Storage—Placing natural gas into an underground facility for removal and use at a later date.

Transmission—The moving of natural gas through the interstate pipeline system for delivery to the NGDC.

Cross References

This section cited in 52 Pa. Code § 62.71 (relating to purpose); 52 Pa. Code § 62.74 (relating to bill format for residential and small business customers); 52 Pa. Code § 62.75 (relating to disclosure statement for residential and small business customers); 52 Pa. Code § 62.222 (relating to definitions); and 52 Pa. Code § 62.224 (relating to POR programs).

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

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

(1) An initial notice shall be provided to each affected customer 60 to 75 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. For a customer who has elected to receive electronic communications from the NGS, the notice shall be transmitted in the manner chosen by the customer. The initial notice must include:

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

(2) An options notice shall be provided after the initial notice to each affected customer at least 45 days prior to the expiration date of the fixed duration contract or the effective date of the proposed change in terms. The notice shall be provided by first class mail unless the customer has affirmatively elected to receive electronic communications from the NGS. The options notice must include:

- (i) A statement advising the customer of the specific changes being proposed by the NGS and informing the customer of how to exercise the customer's options, including the customer's ability to accept the proposed changes, to choose another product offering from the customer's existing NGS, to select another NGS or to return to the supplier of last resort, and what will occur if the customer fails to respond to the notice. If the NGS intends to discontinue service to the customer at the end of the contract, the options notice must include a statement that the NGS will no longer serve the

customer at the end of the contract and that the customer will be returned to the supplier of last resort if the customer does not select another NGS.

(ii) Information regarding the new billed price or renewal billed price, including the price to be charged for the first billing cycle of commodity service:

(A) If a customer fails to respond to the options notice and is converted to a month-to-month contract, the NGS shall provide a disclosure statement under § 62.75 (relating to disclosure statement for residential and small business customers).

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

(II) For a customer who has elected to receive electronic communications from the NGS, notice of the change in billed price shall be transmitted in the manner chosen by the customer. For other customers, notice shall be provided by first class mail.

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

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

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

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

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

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

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

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

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

(ii) Enrolls with another NGS.

(iii) Returns to the supplier of last resort.

Source

The provisions of this § 62.81 adopted August 12, 2016, effective August 13, 2016, 46 Pa.B. 4959.

Subchapter D. LICENSING REQUIREMENTS FOR NATURAL GAS SUPPLIERS

- Sec.
- 62.101. Definitions.
 - 62.102. Scope of licensure.
 - 62.103. Application process.
 - 62.104. Application form.
 - 62.105. Change in organizational structure or operational status.
 - 62.106. Open and nondiscriminatory access.
 - 62.107. Publication of notice of filing.
 - 62.108. Protests to applications.
 - 62.109. Approval.
 - 62.110. Reporting requirements.
 - 62.111. Bonds or other security.
 - 62.112. Transfer or abandonment of license.
 - 62.113. License suspension; license revocation.
 - 62.114. Standards of conduct and disclosure for licensees.

Authority

The provisions of this Subchapter D issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 2203(12) and 2208, unless otherwise noted.

Source

The provisions of this Subchapter D adopted July 20, 2001, effective July 21, 2001, 31 Pa.B. 3943, unless otherwise noted.

§ 62.101. Definitions.

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

Act—66 Pa.C.S §§ 2201—2212 (relating to Natural Gas Choice and Competition Act).

Aggregator—An entity, licensed by the Commission, that purchases natural gas and takes title to it as an intermediary for sale to retail customers.

Applicant—A person or entity seeking to obtain a license to supply retail natural gas supply services to retail customers.

Broker—An entity, licensed by the Commission, that acts as an agent or intermediary in the sale and purchase of natural gas that does not take title to natural gas supply.

City natural gas distribution operation—A collection of real and personal assets used for distributing natural gas to retail gas customers owned by a city or a municipal authority, nonprofit corporation or public corporation formed under section 2212(m) of the act (relating to city natural gas distribution operations).

License—A license granted to an NGS under this subchapter.

Licensee—A person or entity that has obtained a license to provide natural gas supply services to retail customers.

Marketing—The publication, dissemination or distribution of informational and advertising materials regarding the licensed NGS's natural gas supply services and products to the public by personal contact, print, broadcast, electronic media, direct mail or by telecommunication.

NGDC—Natural gas distribution company—The term as defined in section 2202 of the act (relating to definitions).

NGS—Natural gas supplier—The term as defined in section 2202 of the act.

Natural gas supply services—The term as defined in section 2202 of the act.

Nonselling marketer—An individual or commercial entity, such as a telemarketing firm, door-to-door salesman or company, or auction-type web site, under contract to a licensed NGS, that provides marketing services to retail customers for natural gas supply services.

Nontraditional marketer—A community-based organization, civic, fraternal or business association, or common interest group that works with a licensed NGS as an agent to market natural gas service to its members or constituents. A nontraditional marketer may not require its members or constituents to obtain its natural gas service through a specific licensed NGS.

Offer to provide service—The extension of an offer to provide services or products communicated orally or in writing to a customer.

Retail gas customer—The term as defined in section 2202 of the act.

Supplier of last resort—A supplier approved by the Commission under section 2207(a) of the act (relating to obligation to serve) to provide natural gas supply services to customers who contracted for natural gas that was not delivered, or who did not select an alternative NGS, or who are not eligible to obtain competitive natural gas supply, or who return to the supplier of last resort after having obtained competitive natural gas supply.

Source

The provisions of this § 62.101 amended June 13, 2014, effective June 14, 2014, 44 Pa.B. 3551. Immediately preceding text appears at serial pages (360930) and (369849).

Cross References

This section cited in 52 Pa. Code § 62.222 (relating to definitions).

§ 62.102. Scope of licensure.

(a) An NGS, including an aggregator or a broker, may not engage in marketing, or may not offer to provide, or provide natural gas supply services to retail customers until it is granted a license by the Commission.

(b) An NGDC acting within its certified service territory as a supplier of last resort is not required to obtain a license.

(c) The owners/operators of a building or facility that manage the internal distribution system supplying a building or facility and supply natural gas and other related services to occupants of the building or the facility where the owners/operators, and not the occupants, are the direct purchasers of the natural gas supply services are not required to obtain a license.

(d) A nontraditional marketer is not required to obtain a license. The licensed NGS is responsible for violations of 66 Pa.C.S. (relating to Public Utility Code), and applicable regulations of this part, orders and directives committed by the nontraditional marketer and fraudulent, deceptive or other unlawful marketing or billing acts committed by the nontraditional marketer.

(e) A nonselling marketer under contract to more than one licensed NGS is required to obtain a license.

(f) A nonselling marketer under contract to only one licensed NGS is not required to obtain a license. The licensed NGS is responsible for violations of 66 Pa.C.S. and applicable regulations of this part, orders and directives committed by the nonselling marketer and fraudulent, deceptive or other unlawful marketing or billing acts committed by the nonselling marketer.

Source

The provisions of this § 62.102 amended June 13, 2014, effective June 14, 2014, 44 Pa.B. 3551. Immediately preceding text appears at serial pages (369849) and (369850).

§ 62.103. Application process.

(a) An application for a license shall be made on the form provided by the Commission. A copy of the application can be obtained from the Commission's Secretary. The application form is also available on the Commission's Internet web site. An application shall be verified by an oath or affirmation as required in § 1.36 (relating to verification). See section 2208(b) of the act (relating to requirements for natural gas suppliers).

(b) An original of the completed application and supporting attachments shall be filed. An application for a license shall be accompanied by the application fee as established in § 1.43 (relating to schedule of fees payable to the Commission).

(c) Subject to subsection (e), copies of the completed applications with supporting documentation shall be served on the following:

- (1) The Office of Consumer Advocate.
- (2) The Office of Small Business Advocate.
- (3) The Office of Attorney General, Bureau of Consumer Protection.
- (4) The Department of Revenue.
- (5) Each NGDC in whose service territory the applicant intends to provide natural gas supply services.

(d) Incomplete applications and those without supporting attachments, if needed, will be rejected without prejudice. The license application, with supporting attachments, shall be completed in its entirety.

(e) When an answer on the application requires the disclosure of privileged or confidential information not otherwise available to the public, the applicant may designate at each point in the application where information is disclosed that is confidential and privileged. One copy of this confidential or privileged information conspicuously marked at the top as “CONFIDENTIAL” may be submitted to the Office of the Secretary with the application.

(1) An applicant must provide reasons for protecting this information.

(2) The request for confidentiality will be treated as a petition for protective order and will be ruled on by the Commission in conjunction with the license application.

(3) Pending disposition, the information will be used solely for the purpose of evaluating the license application, and the confidentiality of this information will be maintained consistent with the Commission’s rules and regulations pertaining to confidentiality.

Authority

The provisions of this § 62.103 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 523, 1301, 1501 and 1504.

Source

The provisions of this § 62.103 amended January 10, 2014, effective January 11, 2014, 44 Pa.B. 249. Immediately preceding text appears at serial pages (360932) and (281583).

§ 62.104. Application form.

(a) The application form includes information that will be used in the evaluation of the financial fitness and technical fitness to render service. Information includes:

(1) Identification of the geographic area that the applicant proposes to serve.

(2) Identification of the type of service that the applicant proposes to furnish.

(3) Identification of the class of customers to which the applicant proposes to provide these services.

(4) Identification of the applicant’s utility affiliates.

(5) Description of the applicant’s business structure.

(6) Financial information sufficient to demonstrate financial fitness. This information may include credit ratings and history, audited financial statements, and insurance pertinent to the conduct of the applicant’s business as an NGS.

(7) Evidence of competency and experience in providing the scope and nature of the applicant’s proposed services. This evidence may include:

(i) Descriptions of the applicant’s prior experience.

(ii) Proposed staffing and employee training commitments.

(iii) Business plans.

(iv) Agreements, arrangements and contracts for natural gas supply procurement, transmission and related services.

(8) Evidence demonstrating the applicant’s ability to comply with applicable Commission requirements concerning customer billing, customer education, billing and terms of service, and customer information. This evidence may include:

(i) Prior regulatory experience of the applicant.

(ii) Prior business experience in energy or other service-oriented industries.

- (iii) Staffing and staff training commitments.
- (iv) Agreements, arrangements and contracts for customer education and information service.
- (v) Customer satisfaction survey results.
- (vi) Government agency reports.
- (vii) Complaint statistics compiled by the Better Business Bureau or similar business organizations.

(9) Certification that notice of the application was published in accordance with § 54.35 (relating to publication of notice of filing) shall be filed with the Commission's Secretary. The certification shall be notarized and include a photostatic copy of the notices as published. An application will not be considered complete for Commission review without this certification.

(b) Additional information that shall be submitted in support of the application includes:

- (1) The name, address, telephone number, electronic numbers and addresses used to transmit tax and related information of the persons responsible for preparing and filing the applicant's Pennsylvania tax returns.
- (2) The trade names or fictitious names used by the applicant.
- (3) The type of business association (for example, sole proprietor, partnership or corporation).
- (4) The names of the owners, general partners or corporate officers.
- (5) The number of the applicant's current and anticipated employees working in this Commonwealth.
- (6) An identification of the applicant's assets in this Commonwealth.
- (7) The principal office in this Commonwealth or of its registered agent.
- (8) The applicant's Department of Revenue tax identification numbers including Sales Tax license number, employer identification number and corporate box number.

§ 62.105. Change in organizational structure or operational status.

(a) The applicant is under a duty to inform the Commission of a material change in the information provided in the application during the pendency of the application, or while the licensee is operating in this Commonwealth.

(b) A material change in the organizational structure or operation that affects an applicant's or a licensee's operation in this Commonwealth shall be reported to the Commission within 30 days of the date of the change. Specifically, notification shall be given to the Commission of a change in the following:

- (1) Affiliation with an NGDC.
- (2) Affiliation with an entity that has a franchised service area.
- (3) Affiliation with another NGS.
- (4) Affiliation with a licensed electric generation supplier.
- (5) Office location.
- (6) Chief executive officer or operating partners.

(7) Customer classes served expanded to include residential and small commercial customers.

(c) Unless directed otherwise by the Commission, the licensee does not need to file an amended application with the Commission.

§ 62.106. Open and nondiscriminatory access.

A municipal corporation shall, before it is permitted to provide natural gas supply services as a licensed NGS, demonstrate, and the Commission will determine, that by the date of the issuance of the license, it will provide other NGSs open and nondiscriminatory access to its gas distribution system under standards that are comparable to those found in the act, taking into consideration the particular circumstances of the municipal corporation's ownership or operation, or both, of its natural gas distribution system. See section 2208(g) of the act (relating to open and nondiscriminatory access).

§ 62.107. Publication of notice of filing.

(a) Notice of filing an application shall be published in newspapers of general circulation covering each county in which the applicant intends to provide service as required by § 5.14(a)(2) (relating to applications requiring notice). Applicants may contact the Commission's Press Secretary to confirm the identity of the newspapers of general circulation in which notice shall be published.

(b) The notice shall be written in plain language and include the name, address and telephone number of the applicant, a description of the proposed services to be provided and the geographic area to be served.

(1) The notice shall include the application docket number and a statement that protests related to the technical or financial fitness of the applicant shall be filed within 15 days of the publication date of the notice with the Commission's Secretary, Public Utility Commission, Post Office Box 3265, Harrisburg, PA 17105-3265.

(2) The notice in an acceptable electronic format shall be submitted to the Commission's Secretary for posting on the Commission's Internet web site. Inquiries concerning the electronic format may be directed to the Commission's Forms Officer.

§ 62.108. Protests to applications.

(a) Consistent with § 5.14(b) (relating to applications requiring notice), a 15-day protest period commences on the date notice of the application filing is published in newspapers. An interested party may file a protest to an application in compliance with § 5.52(a) (relating to content of a protest to an application) and shall set out clearly and concisely the facts upon which challenge to the fitness of the applicant is based. An applicant may file an answer to the protest within 10 days of when the protest is filed. Protests which do not fully comply with § 5.52(a) will be rejected.

(b) Protests may challenge only the applicant's financial and technical fitness to provide the service for which a license is requested. Consistent with the requirements of due process, sanctions, such as revocation or suspension of a supplier's license or the imposition of a fine, may be imposed on parties who intentionally misuse the protest process by repeated filing of competitive protests.

(c) A protest to the applicant's technical or financial fitness to provide service will be assigned to Commission staff for review. Staff will determine if the protest fully complies with § 5.52(a) and sets out clearly and concisely the facts upon which the challenge to the fitness of the applicant is based.

(1) Staff will determine if the protest is sufficiently documented.

(2) If a protest is not sufficiently documented, Commission staff will prepare a recommendation for Commission consideration dismissing the protest and granting the application.

(3) If a protest is sufficiently documented, the application will be transferred to the Office of Administrative Law Judge for hearings or mediation as deemed appropriate.

§ 62.109. Approval.

(a) A license will be issued, authorizing the whole or any part of service requested, if the Commission finds that:

(1) The applicant is fit, willing and able to properly perform the service proposed in conformance with applicable provisions of 66 Pa.C.S. (relating to the Public Utility Code) and the lawful Commission orders and regulations, specifically including Chapter 56 (relating to standards and billing practices for residential utility service).

(2) The proposed service is consistent with the public interest and the policy declared in the act (See section 2208(b) of the act (relating to requirements for natural gas suppliers)).

(b) Completed applications, with all supporting documentation, including any documentation or clarifying information requested by Commission staff, if unprotested, will be processed within 45 days after acceptance by the Commission. If the application is not processed within the time period, the application will be deemed approved. The review period may be extended for a reasonable period of time by Secretarial Letter.

§ 62.110. Reporting requirements.

(a) A licensee shall file an annual report on or before April 30 of each year, for the previous calendar year. The annual report must contain the following information:

(1) The total amount of gross receipts from the sales of natural gas supply services for the preceding calendar year.

(2) The total amount of natural gas sold during the preceding calendar year.

- (3) The names and addresses of nontraditional marketers and nonselling marketers who are currently or will be acting as agents for the licensee in the upcoming year.
- (b) A licensee shall be required to meet periodic reporting requirements issued by the Commission to fulfill the Commission's duty under the act pertaining to reliability and to inform the Governor and General Assembly of the progress to a fully competitive natural gas market.
- (c) The information requested in this section will be made available for public review upon request to the Commission subject to any rulings on confidentiality made by the Commission.

Source

The provisions of this § 62.110 amended June 13, 2014, effective June 14, 2014, 44 Pa.B. 3551. Immediately preceding text appears at serial pages (281586) and (354731).

§ 62.111. Bonds or other security.

- (a) A license will not be issued or remain in force until the licensee furnishes proof of a bond or other security. See section 2208(c)(1)(i) of the act (relating to requirements for natural gas suppliers).
- (b) The purpose of the security requirement is to ensure the licensee's financial responsibility. See section 2208(c)(1)(i) of the act.
- (c) The amount and the form of the security, if not mutually agreed upon by the NGDC and the licensee, shall be based on the criteria established in this section. The criteria shall be applied in a nondiscriminatory manner. The Commission will periodically review the established criteria upon petition by any party. The NGDC shall include the rules, formulas and standards it uses to calculate and adjust security amounts in a tariff.
- (1) The amount of the security should be reasonably related to the financial exposure imposed on the NGDC or supplier of last resort resulting from the default or bankruptcy of the licensee. The amount of security should reflect the difference between the cost of gas incurred by the NGDC or supplier of last resort and the amount payable by the licensee's retail gas customers during one billing cycle.
- (i) The amount of security established under this paragraph may be modified based on one or more of the following:
- (A) The licensee's past operating history on the NGDC's system and on other NGDC systems, including the length of time that the licensee operated on the NGDC system, the number of customers served and past supply reliability problems.
 - (B) The licensee's credit reports.
 - (C) The number and class of customers being served.
 - (D) Information that materially affects a licensee's creditworthiness as set forth in subparagraph (ii)(A)—(E).

(E) The licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs.

(ii) The amount of the security may be adjusted as circumstances warrant. The adjustments must be reasonable and based on one or more of the following criteria:

(A) A change in a licensee's recent operating history on the NGDC system or on other NGDC systems that has materially affected NGDC system operation or reliability. A change that could materially affect NGDC system operation or reliability may occur when a supplier fails to deliver natural gas supply sufficient to meet its customers' needs, or fails to comply with NGDC operational flow orders as defined in § 69.11 (relating to definitions).

(B) A change in a licensee's credit reports that materially affects a licensee's creditworthiness. A licensee's creditworthiness could be materially affected when two of the following credit rating companies change the licensee's credit rating:

- (I) Dun & Bradstreet.
- (II) Standard & Poor's Rating Services, Inc.
- (III) TransUnion LLC.
- (IV) Equifax, Inc.
- (V) Experian Information Solutions, Inc.

(C) A significant change in the number of customers served, in the volume of gas delivered, or in the unit price of natural gas or a change in the class of customers being served by the licensee. A change over a consecutive 30- day period of 25% in the number of customers served, in the volume of gas delivered or in the average unit price of natural gas would represent a significant change.

(D) A change in operational or financial circumstances that materially affects a licensee's creditworthiness. A licensee's creditworthiness could be materially affected when two of the following investment rating companies change the licensee's rating of its issued securities from an investment grade or good rating to a speculative or moderate credit risk rating, and vice versa:

- (I) Standard & Poor's Rating Services, Inc.
- (II) Moody's Investment Service, Inc.
- (III) Fitch, Inc.
- (IV) A. M. Best Company, Inc.
- (V) DBRS, Inc.

(E) A change in the licensee's demonstrated capability to provide the volume of natural gas necessary for its customers' needs that materially affects NGDC system operation or reliability. A change that could materially affect NGDC system operation or reliability may occur when a supplier fails to deliver natural gas supply sufficient to meet its customers' needs on five separate occasions within a 30-day period, or fails to comply with NGDC operational flow orders as defined in § 69.11.

(2) The following legal and financial instruments and property shall be acceptable as security:

- (i) Bond.
- (ii) Irrevocable letter of credit.
- (iii) Corporate, parental or other third-party guaranty.
- (iv) Escrow account.
- (v) Accounts receivable pledged or assigned to an NGDC by a licensee participating in the NGDC's purchase of receivables program that has been approved by the Commission as being consistent with Commission orders, guidelines and regulations governing the programs.
- (vi) Calls on capacity, netting NGDC gas supply purchases from the NGS against NGS security requirements, or other operational offsets as may be mutually agreed upon by the NGDC and the NGS.
- (vii) Cash.

(3) In addition to the requirements in this section, small suppliers with annual operating revenues of less than \$1 million may utilize real or personal property as security with the following supporting documentation:

- (i) A verified statement from the licensee that it has clear title to the property and that the property has not been pledged as collateral, or otherwise encumbered in regard to any other legal or financial transaction.
- (ii) A current appraisal report of the market value of the property.

(4) When practicable, the NGDC shall use applicable North American Energy Standards Board forms or language for financial and legal instruments that are used as security.

(5) The NGDC shall file an annual report with the Secretary no later than April 30 of each year. The report must contain the following information for the prior calendar year:

- (i) The criteria that is used to establish the amount of security that an applicant must provide to the NGDC in order to be granted a license by the Commission.
- (ii) The criteria that is used to determine the amount of security that a licensee must provide to ensure its financial responsibility in order to maintain a license.
- (iii) The criteria that is used to determine that a change in the amount of security is needed for the licensee to maintain a license.
- (iv) The number of instances in the last year that the NGDC determined that a change in the amount of security was needed for a licensee to maintain its license. For each instance, the following information shall be reported:
 - (A) The name of the licensee involved.
 - (B) The date of the NGDC's determination.
 - (C) The reason for the determination.
 - (D) The licensee's response to the NGDC determination.

(v) The types of legal instruments, financial instruments and property, real and personal, that the NGDC accepted as security for licensing purposes. For each security type reported, the following information shall be reported:

(A) The name of the applicant or licensee involved.

(B) The name and address of the bank, company or other entity that is acting as the surety or guarantor.

(C) The amount of security.

(D) The date that the security was posted.

(6) When an NGDC determines that an adjustment in the amount or type of security that a licensee must provide to maintain its license is warranted, the NGDC shall provide notice of its determination to the licensee in writing. The NGDC's determination must be based on the criteria in paragraphs (1), (2) and (3). The licensee shall comply with the NGDC's determination no later than 5 business days after the date that the licensee was served with notice of the NGDC's determination. When the licensee disagrees with the NGDC's determination, the licensee may file a dispute with the NGDC in accordance with paragraph (8).

(7) A licensee may request that the NGDC adjust the amount or type of security the licensee must provide to maintain its license. The licensee shall provide its request in writing to the NGDC. The request must be based on criteria in paragraphs (1), (2) and (3). The NGDC shall make its determination on the request and provide a written response to the licensee within 5 business days after the date that the request was made. When the NGDC agrees to the requested adjustment in security, the licensee shall post the security within 5 business days after the date that the licensee was served with notice of the NGDC's determination. When the licensee disagrees with the NGDC's determination, the licensee may file a dispute with the NGDC in accordance with paragraph (8).

(8) When there is a dispute relating to the form or amount of security, the applicant or licensee shall notify the NGDC of the dispute and attempt to resolve the dispute. If a resolution is not reached within 30 days after the date that the NGDC is notified of the dispute, the applicant or the licensee may:

(i) Submit the dispute to the Secretary for assignment to the appropriate bureau, office, or other designated unit for informal mediation and resolution. A party dissatisfied with the staff determination may file a petition for appeal from a decision made by the Bureau under § 5.44 (relating to petitions for appeal from staff) or may file a formal complaint with the Commission under §§ 5.21 and 5.22 (relating to formal complaints generally; and content of formal complaint).

(ii) File a formal complaint with the Commission and request alternative dispute resolution by the Office of Administrative Law Judge.

(iii) File a formal complaint with the Commission and proceed with the litigation of the complaint.

- (iv) File a petition with the Commission and request review of the criteria used by the NGDC.
- (9) When a licensee submits a dispute or files a formal complaint relating to an adjustment in security by an NGDC, the following obligations apply:
 - (i) The licensee shall provide to the NGDC the adjusted security amount as directed by the NGDC. The licensee shall maintain the adjusted amount of security until the dispute or complaint is resolved or until directed otherwise by the Commission.
 - (ii) The licensee shall continue to operate on the NGDC system in accordance with system operation and business rules and practices until the dispute or complaint is resolved or until directed otherwise by the Commission.
 - (iii) The licensee shall cause to be delivered to the NGDC system natural gas supply in the volume necessary to fulfill its customers' requirements and provide customer support services until the dispute or complaint is resolved or until directed otherwise by the Commission.
 - (iv) The NGDC shall permit the licensee to continue to operate on the NGDC system until the dispute or complaint is resolved or until directed otherwise by the Commission.
- (d) The licensee shall submit to the Commission documentation demonstrating that it has complied with the bonding or security requirement. One copy of each bond, letter of credit, or other financial or legal instrument or document evidencing an agreement between the licensee and the NGDC shall be submitted to the Commission.
- (e) Licensee liability for violations of 66 Pa.C.S. (relating to the Public Utility Code) and Commission orders and regulations is not limited by these security requirements.

Source

The provisions of this § 62.111 amended December 31, 2010, effective January 1, 2011, 41 Pa.B. 30. Immediately preceding text appears at serial pages (314759) to (314760) and (318339).

Notes of Decisions

Financial Security Determination

PUC has discretion to approve criteria to be used to determine the appropriate financial security based upon financial impact on natural gas distribution company (NGDC) by natural gas supplier default; criteria is for a "reasonably related" financial security requirement, not the worst case scenario as determined by the NGDC, which was contrary to the intentions of the statute to promote competition and choice in the natural gas industry. *UGI Utilities v. Pennsylvania Public Utility Commission*, 878 A.2d 186, 192 (Pa. Cmwlth. 2005).

Penalties

Natural gas distribution company did not present any evidence supporting its proposition that penalties were in any way related to the financial exposure that it would have in the event of natural gas supplier's default or bankruptcy, which is a necessary requirement for including penalty as an element

of financial security; additionally, there is no language in the Commission's regulations regarding the inclusion of penalties in a calculation of security. *UGI Utilities v. Pennsylvania Public Utility Commission*, 878 A.2d 186, 193 (Pa. Cmwlth. 2005).

Public Utility Commission

The Pennsylvania Public Utility Commission is the administrative agency charged with regulating utilities under the *Pennsylvania Code*, and its expert interpretation of those issues is entitled to great deference unless clearly erroneous; when there is substantial evidence to support the PUC's decision, the court will not substitute its discretion for the discretion of the PUC. *UGI Utilities v. Pennsylvania Public Utility Commission*, 878 A.2d 186, 192 (Pa. Cmwlth. 2005).

§ 62.112. Transfer or abandonment of license.

(a) A license may not be transferred without prior Commission approval. See section 2208(d) of the act (relating to requirements for natural gas suppliers). Approval for transfer shall be obtained by petition to the Commission. A license application shall be filed by the transferee at the same time that the petition for transfer is filed and demonstrate the transferee's financial and technical fitness to render service under the transferred license.

(b) A licensee may not abandon its license without providing 90 days prior written notice to the Commission, the licensee's customers, the affected distribution utilities and suppliers of last resort. The licensee shall provide written individual notice to its customers at approximately 90 days and 60 days preceding the effective date of the abandonment.

§ 62.113. License suspension; license revocation.

(a) A licensee shall comply with the applicable requirements of 66 Pa.C.S. (relating to the Public Utility Code) and Commission regulations and orders. Consistent with due process, a license may be suspended or revoked, and fines may be imposed against the licensee for:

- (1) Failure to furnish and maintain a bond or other security.
- (2) Failure to comply with the rules, regulations, orders or directives of the Department of Revenue.
- (3) Failure to provide the address of its current principal office in this Commonwealth or of its registered agent.
- (4) Failure to follow the principles in § 62.114 (relating to standards of conduct and disclosure for licensees).
- (5) Violation of applicable provisions of 66 Pa.C.S., Commission regulations and lawful Commission orders. See section 2208(c)(2) of the act (relating to requirements for natural gas suppliers).
- (6) Violation of Pennsylvania consumer protection law.

(b) The unauthorized transfer by an NGDC, or its affiliate, of a customer's NGS without the customer's express consent will result in a fine, or the suspension, or the revocation of the license of that NGDC's affiliated NGS. See section 2206(b) of the act (relating to consumer protection and customer service).

(c) The unauthorized transfer by a licensed NGS, or its affiliate, of a customer's NGS without the customer's express consent will result in a fine, or the suspension, or the revocation of the license of that NGS.

§ 62.114. Standards of conduct and disclosure for licensees.

To protect the consumers of this Commonwealth, licensees shall adhere to the following principles in the provision of natural gas service:

(1) A licensee shall provide accurate information about its natural gas services using plain language and common terms in communications with consumers. When new terms are used, the terms shall be defined again using plain language.

(2) A licensee shall provide notification of change in conditions of service, intent to cease operation as an NGS, explanation of denial of service, proper handling of deposits and proper handling of complaints in accordance with this title.

(3) A licensee shall maintain the confidentiality of a consumer's personal information including name, address and telephone number, and historic payment information, and provide the right of access by the consumer to the consumer's own load and billing information.

(4) A licensee may not discriminate in the provision of natural gas as to availability and terms of service based on race, color, religion, national origin, sex, marital status, age, receipt of public assistance income, and exercise of rights under the Consumer Credit Protection Act (15 U.S.C.A. §§ 1601—1693c). See 15 U.S.C.A. §§ 1691—1691f (relating to equal credit opportunity); and 12 CFR Part 202 (relating to equal credit opportunity)(Regulation B).

(e) A licensee is responsible for any fraudulent, deceptive or other unlawful marketing or billing acts performed by the licensee, its employees, agents or representatives. A licensee shall inform consumers of State consumer protection laws that govern the cancellation or rescission of natural gas supply contracts. See section 7 of the Unfair Trade Practices and Consumer Protection Law (73 P. S. § 201-7).

(f) A licensee shall comply with relevant Commission regulations, orders and directives that may be adopted.

Cross References

This section cited in 52 Pa. Code § 62.113 (relating to license suspension; license revocation); 52 Pa. Code § 62.224 (relating to POR programs); 52 Pa. Code § 111.3 (relating to supplier liability for its agent); 52 Pa. Code § 111.5 (relating to agent training); and 52 Pa. Code § 111.12 (relating to consumer protection).

Subchapter E. STANDARDS OF CONDUCT

Sec.
62.141. Definitions.
62.142. Standards of Conduct.

Authority

The provisions of this Subchapter E issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 502, 504—506, 508, 701, 1501, 1502, 2102—2107 and 2201—2212, unless otherwise noted.

Source

The provisions of this Subchapter E adopted April 14, 2006, effective April 15, 2006, 36 Pa.B. 1748, unless otherwise noted.

§ 62.141. Definitions.

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

Affiliated NGS—

- (i) An NGS engaging in marketing activities related to natural gas supply services by the marketing division or marketing operation of an NGDC.
- (ii) The term does not include a utility's marketing department or division to the extent that it informs existing or prospective customers of the availability and price of the regulated sales service that utility furnishes in its role as supplier of last resort.

*Commission—*The Pennsylvania Public Utility Commission.

*Favored customer—*Any customer of an NGDC or its affiliated NGS which receives a benefit of economic value to retain that customer on the distribution system.

*NGDC—Natural gas distribution company—*A public utility or city natural gas distribution operation that provides natural gas distribution services and which may provide natural gas supply services and other services. For purposes of this standard of conduct, the term does not include:

- (i) A public utility subject to the jurisdiction of the Commission which has annual gas operating revenues of less than \$6 million per year, except:
 - (A) When the public utility voluntarily petitions the Commission to be included within the definition of NGDC.
 - (B) When the public utility seeks to provide natural gas supply services to retail gas customers outside its service territory.
- (ii) A natural gas public utility subject to the jurisdiction of the Commission that is not interconnected to an interstate gas pipeline by means of a direct or indirect connection through the distribution system of another natural gas public utility or through a natural gas gathering system.

NGS—Natural gas supplier—

- (i) An entity other than an NGDC, but including NGDC marketing affiliates without regard to structural relationship, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of an NGDC. The term includes:
 - (A) An NGDC that provides natural gas supply services outside its certificated service territories.

(B) A municipal corporation, its affiliates or any joint venture, to the extent that it chooses to provide natural gas supply services to retail customers located outside of its corporate or municipal limits, as applicable, other than:

(I) As provided prior to July 1, 1999, the effective date of 66 Pa.C.S. Chapter 22 (relating to natural gas competition), under a certificate of public convenience if required under this title.

(II) Total natural gas supply services in de minimis amounts.

(III) Natural gas supply services requested by, or provided with the consent of, the public utility in whose certificated territory the services are provided.

(IV) Natural gas supply services provided to the municipal corporation itself or its tenants on land it owns or leases, or is subject to an agreement of sale or pending condemnation, as of September 1, 1999, to the extent permitted by applicable law independent of 66 Pa.C.S. Chapter 22.

(ii) The term excludes an entity to the extent that it provides free gas to end-users under the terms of an oil or gas lease. Notwithstanding any other provision of 66 Pa.C.S. (relating to the Public Utility Code), an NGS that is not an NGDC is not a public utility as defined in 66 Pa.C.S. § 102 (relating to definitions) to the extent that the NGS is utilizing the jurisdictional distribution facilities of an NGDC or is providing other services authorized by the Commission.

Cross References

This section cited in 52 Pa. Code § 62.224 (relating to POR programs).

§ 62.142. Standards of conduct.

(a) *General requirements.* NGDCs and NGSs shall comply with the following requirements:

(1) An NGDC shall apply its tariffs in a nondiscriminatory manner to its affiliated NGS and a nonaffiliated NGS.

(2) An NGDC may not apply a tariff provision in a manner that would give its affiliated NGS preference over other NGSs with regard to matters such as scheduling, balancing, transportation, storage, curtailment, capacity release and assignment, nondelivery and other services provided to its affiliated NGS.

(3) Mandatory tariff provisions may not be waived by an NGDC for an NGS absent prior approval of the Commission.

(4) When a tariff provision is not mandatory or provides for waivers, an NGDC shall grant the waivers without preference to its affiliated NGS or non-affiliated NGS.

(5) An NGDC shall maintain a chronological log of tariff provisions for which it has granted waivers. Entries must include the name of the party

receiving the waiver, the date and time of the request, the specific tariff provision waived and the reason for the waiver. The chronological log must be open for public inspection during normal business hours. When the NGDC maintains a website, it shall post the terms set forth in this paragraph on its website for at least 3 months.

(6) An NGDC shall process requests for distribution services promptly and in a nondiscriminatory fashion with respect to other requests received in the same or a similar period. An NGDC shall maintain a chronological log showing the processing of requests for transportation services. The chronological log must be open for public inspection during normal business hours.

(7) If an NGDC provides a distribution service discount, fee waiver or rebate to its favored customers, or to the favored customers of its affiliated NGS, the NGDC shall offer the same distribution service discount, fee waiver or rebate to other similarly situated customers. Offers may not be tied to an unrelated service, incentive or offer on behalf of either the NGDC or its affiliated NGS. A chronological log shall be maintained showing the date, party, time and rationale for the action. The chronological log must be open for public inspection during normal business hours.

(8) Subject to customer privacy or confidentiality constraints, an NGDC may not disclose, directly or indirectly, any customer proprietary information to its affiliated NGS unless authorized by the customer. To the extent that an NGDC does disclose customer information without customer authorization, it shall first seek the permission of the customer consistent with its tariffs, any contractual obligations it may have to the customer or § 62.78 (relating to privacy of customer information) and, if that customer grants permission, contemporaneously provide this same information to other similarly situated NGSs in a similar fashion so as not to selectively disclose, delay disclosure or give itself or its affiliated NGS an advantage related to the disclosure. A chronological log shall be maintained showing the date, party, time and rationale for the disclosure. The chronological log must be open for public inspection during normal business hours. This paragraph does not apply to the disclosure of customer information made under a customer assistance program mandated by State law or regulation.

(9) An NGDC shall reasonably allocate to its affiliated NGS the costs or expenses for general administration or support services provided to its affiliated NGS.

(10) NGDCs may not condition or tie the provision of a product, service or price agreement by the NGDC, including release of interstate pipeline capacity, to the provision of a product or service by its affiliated NGS.

(11) An NGDC may not give its affiliated NGS preference over a nonaffiliated NGS in the provision of goods and services including processing requests for information, complaints and responses to service interruptions. An NGDC

shall provide comparable treatment in its provision of goods and services without regard to a customer's chosen NGS.

(12) An NGDC and its affiliated NGS shall maintain separate books and records. Transactions between the NGDC and its affiliated NGS may not involve cross-subsidies. Shared facilities must be fully and transparently allocated between the NGDC function and the affiliated NGS function. The NGDC accounts and records shall be maintained so that the costs incurred on behalf of an affiliated NGS are clearly identified.

(13) NGDC employees who have responsibility for operating the distribution system, including natural gas delivery or billing and metering, as well as those responsible for marketing and customer service, may not be shared with an affiliated NGS, and their offices shall be physically separated from the offices used by those working for the affiliated NGS. NGDC employees may transfer to an affiliated NGS provided the transfer is not used as a means to circumvent these standards of conduct.

(14) Neither the NGDC nor its affiliated NGS may directly, or by implication, falsely and unfairly represent to a customer, NGS or third party that an advantage may accrue to a party through use of the NGDC's affiliates or subsidiary, such as:

(i) The Commission-regulated services provided by the NGDC are of a superior quality when services are purchased from its affiliated NGS.

(ii) The merchant services for natural gas are being provided by the NGDC when they are in fact being provided by an affiliated NGS.

(iii) The natural gas purchased from a nonaffiliated NGS may not be reliably delivered.

(iv) Natural gas shall be purchased from an affiliated NGS to receive Commission-regulated services.

(15) When an affiliated NGS markets or communicates to the public using the NGDC name or logo, it shall include a legible disclaimer that states that:

(i) The affiliated NGS is not the same company as the NGDC.

(ii) The prices of the affiliated NGS are not regulated by the Commission.

(iii) A customer does not have to buy natural gas or other products from the affiliated NGS to receive the same quality of service from the NGDC.

(16) When an affiliated NGS advertises or communicates verbally through radio or television to the public using the NGDC name or logo, the affiliated NGS shall include at the conclusion of the communication a legible disclaimer that includes all of the disclaimers in paragraph (15)(i)—(iii).

(17) An NGDC may not:

(i) Jointly market or jointly package its Commission-regulated services with the services of an affiliated NGS.

(ii) Offer or provide to its affiliated NGS products or services, including bill inserts in its NGDC bills promoting an affiliated NGS's services or

a link from the NGDC's website, unless the NGDC offers or provides these products or services to nonaffiliated NGSs on the same terms and conditions.

(iii) The restrictions in subparagraphs (i) and (ii) do not apply to competitive bid situations.

(18) An NGDC may not offer or sell natural gas commodity or capacity to its affiliated NGS without simultaneously posting the offering electronically on a source generally available to the market or by otherwise making a sufficient offer to the market. The NGDC shall maintain a chronological log of these public disseminations. The chronological log must be open for public inspection during normal business hours.

(19) An NGDC shall establish and file with the Commission complaint procedures for dealing with alleged violations of the standards of conduct, with the exception of paragraph (9), which is exclusively under the purview of the Commission. These procedures shall be developed in consultation with interested parties during consideration of tariffs guided by this section and § 69.191 (relating to general). The Commission may grant an exception to these requirements if warranted by the facts or circumstances.

(20) An NGDC shall keep a chronological log of any complaints filed, excepting those filed to paragraph (9), regarding discriminatory treatment of NGSs. This chronological log must include the date and nature of the complaint and the resolution of the complaint. The chronological log must be open for inspection during normal business hours.

(b) *Dispute resolution procedures.* In addition to the procedures in subsection (a)(19):

(1) When a dispute between an NGDC, an affiliated NGS or a nonaffiliated NGS alleging a violation of the standards of conduct provisions occurs, the NGS shall provide the NGDC or affiliated NGS, as applicable, a written notice of dispute that includes the names of the parties and customers, if any, involved and a brief description of the matters in dispute.

(2) Within 5 days of an NGDC's or affiliated NGS's receipt of a notice of dispute, a designated senior representative of each party shall attempt to resolve the dispute on an informal basis.

(3) If the representatives are unable to resolve the dispute by mutual agreement within 30 days of receipt, they shall refer the complaint to the Commission's Office of Administrative Law Judge for mediation under § 69.392 (relating to availability of mediation process). A party may request mediation prior to that time if informal resolution is not productive.

(4) A party may file a complaint concerning the dispute with the Commission under relevant provisions of 66 Pa.C.S. §§ 701—703 (relating to procedure on complaints) and §§ 5.21—5.31 (relating to formal complaints).

(5) A complainant bears the burden of proof consistent with 66 Pa.C.S. § 332 (relating to procedures in general) in regard to the allegations and may request penalties for violations under 66 Pa.C.S. § 3301 (relating to civil penalties for violations).

(c) *Adoption as company policy.* An NGDC and its affiliated NGS shall formally adopt and implement these provisions as company policy and take appropriate steps to train and instruct employees in their content and application.

Cross References

This section cited in 52 Pa. Code § 62.224 (relating to POR programs); 52 Pa. Code § 111.8 (relating to agent identification; misrepresentation); and 52 Pa. Code § 111.14 (relating to notification regarding marketing or sales activity).

Subchapter G. NATURAL GAS DISTRIBUTION COMPANIES AND COMPETITION

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| Sec. | |
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| 62.223. | PTC. |
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Authority

The provisions of this Subchapter G issued under sections 501, 1501 and Chapter 22 of the Public Utility Code (66 Pa.C.S. §§ 501, 1501 and 2201—12), unless otherwise noted.

Source

The provisions of this Subchapter G adopted April 13, 2012, effective April 14, 2012, 42 Pa.B. 2159, unless otherwise noted.

§ 62.221. Purpose.

To foster a competitive retail marketplace for natural gas service to customers eligible for SOLR Service, which is a class of customer that consists largely of residential and small business customers, it is essential that these consumers are able to compare the price of gas purchased from their incumbent NGDCs with that offered for sale by NGSs. This subchapter sets forth a number of regulatory changes which promote competition for natural gas supplies.

§ 62.222. Definitions.

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

Act—66 Pa.C.S. §§ 2201—2212 (relating to Natural Gas Choice and Competition Act).

Base rate—The customer charge, distribution charge and other rates that are established in a Section 1308 proceeding under 66 Pa.C.S. § 1308 (relating to voluntary changes in rates).

Basic services—As defined in § 62.72 (relating to definitions).

GPC—*Gas procurement charge*—An element of the PTC, expressed on a per MCF or dekatherms (Dth) basis, that reflects an NGDC's natural gas procurement costs and removed from the NGDC's base rate and recovered through a separate charge.

MFC—*Merchant function charge*—An element of the PTC, expressed on a per MCF or Dth basis, that reflects the cost of uncollectibles associated with an NGDC's natural gas costs.

NGDC—*Natural gas distribution company*—As defined in section 2202 of the act (relating to definitions).

NGS—*Natural gas supplier*—As defined in section 2202 of the act.

POR—*Purchase of receivables*—A program by which an NGDC purchases the accounts receivable of NGSs.

PTC—*Price to compare*—As defined in § 62.80 (relating to common natural gas competition terms).

SOLR—*Supplier of last resort*—As defined in § 62.101 (relating to definitions).

Small business customer—As defined in § 62.72.

§ 62.223. PTC.

(a) The PTC rate must be expressed on a per MCF or dekatherms (Dth) basis and consist of the following elements:

- (1) The natural gas supply charge determined in the NGDC'S Section 1307(f) proceeding, including the reconciliation for over and under collections.
- (2) The GPC.
- (3) The MFC.

(b) An NGDC shall file a tariff change under 66 Pa.C.S. § 1308(a) (relating to voluntary changes in rates) to identify the natural gas procurement costs included in its base rate and propose tariff revisions designed to remove those costs from its base rate and to recover those annual costs as part of the PTC (the GPC portion) on a revenue neutral basis.

(1) Natural gas procurement costs must include the following elements:

(i) Natural gas supply service, acquisition and management costs, including natural gas supply bidding, contracting, hedging, credit, risk management costs and working capital.

(ii) Administrative, legal, regulatory and general expenses related to those natural gas procurement activities, excluding those related to the administration of firm storage and transportation capacity.

(2) An NGDC's natural gas procurement costs shall be updated in its next base rate case.

(c) An NGDC shall file an MFC rider. The MFC rider must remove the cost of uncollectibles applicable to natural gas costs from its distribution rates and recover those annual costs as part of the PTC on a revenue neutral basis.

(1) A write-off factor for each customer class is determined by dividing the uncollectible expense by revenues. This factor applied to the natural gas supply charge determined in the NGDC's Section 1307(f) proceeding is the implementation MFC amount that must be removed from distribution rates on a revenue neutral basis.

(2) After implementation, unbundled distribution charges may not be adjusted for the write-off factor outside of a base rate case.

(3) The MFC for each customer class must be equal to the write-off factor times the natural gas supply charge determined in the NGDC's Section 1307(f) proceeding and shall be updated quarterly to reflect new natural gas supply charges effective with each 1307(f) filing.

(4) The write-off factor shall be updated in an NGDC's next base rate case.

(d) The GPC and MFC tariff riders must identify:

(1) How the surcharges are calculated.

(2) Which costs shall be recovered through the surcharge by:

(i) Customer class.

(ii) Federal Energy Regulatory Commission account number, including the specific subaccounts used to recover eligible procurement costs.

(e) The GPC and MFC are not subject to reconciliation for a prior period over or under collections.

§ 62.224. POR programs.

(a) *Program design.*

(1) An NGDC may purchase accounts receivable from licensed NGSs which operate on the NGDC system and who wish to sell their receivables.

(2) An NGS electing to sell its receivables to an NGDC shall include its accounts receivables related to choice residential and small business basic services in the POR program.

(3) An NGS shall only sell receivables associated with basic services and may not sell other receivables related to products and services sold in relation to basic services or in addition to basic services to the NGDC's POR program. The NGS shall certify that charges do not include receivables for other products or services.

(4) To qualify for participation in an NGDC's POR program, an NGS shall use consolidated billing from the NGDC unless the NGDC's consolidated billing system cannot reasonably accommodate the NGS's billings for basic services.

(5) An NGDC's POR program shall use a discount rate designed to reflect the NGDC's actual uncollectible rate for supply service customers and the

incremental costs associated with the development, implementation and administration of the POR program.

(6) The POR discount rate must account for risk and cost differences among the NGDC's customer classes.

(7) POR programs must, at a minimum, include receivables on residential and small business customer accounts.

(8) When an NGDC purchases accounts receivables from an NGS through a Commission-approved POR program and the accounts receivables are comprised only of charges for basic services, the NGDC may terminate service to customers for failure to pay NGS gas supply charges.

(9) To ensure that an NGDC's affiliated suppliers do not receive an advantage over nonaffiliated suppliers, a POR program shall be designed and implemented in accordance with §§ 62.141 and 62.142 (relating to standards of conduct).

(10) An NGDC POR program must be included in a supplier coordination tariff, as defined by Commission rules, regulations and orders, and approved by the Commission prior to implementation.

(11) To ensure that the POR discount rate accurately reflects its program costs, an NGDC shall track its POR program costs and NGS basic service collections experience. If the discount rate no longer reasonably compensates the NGDC for its POR program costs and collections experience, the NGDC shall file an update to the POR discount rate with the Commission.

(12) An NGS participating in an NGDC's POR program may separately bill a customer for a specific service or product if that service or product does not meet the definition of basic natural gas supply service.

(13) An NGS participating in an NGDC's POR program shall accept the customers responding to an offer included in the POR program without performing a credit check or requiring an additional security deposit from the customer.

(b) *Customer care.*

(1) An NGS shall follow Commission regulations relating to customer service including Chapter 56 and §§ 62.71—62.80 and 62.114 (relating to standards and billing practices for residential utility service; customer information disclosure; and standards of conduct and disclosure for licensees).

(2) An NGS shall respond to customer complaints regarding rate disputes in less than 30 days consistent with §§ 56.141, 56.151 and 62.79 (relating to dispute procedures; general rule; and complaint handling process).

(3) An NGDC shall follow 66 Pa.C.S. Chapter 14 (relating to responsible utility customer protection) and Chapter 56 when terminating service to a customer for failure to pay the NGS's basic natural gas supply charges purchased under the POR program. An NGDC may terminate service to an NGS customer

only for the customer's failure to pay the portion of the accounts receivables purchased under the POR program that is comprised of charges for basic services.

(4) Reconnection of service to NGS customers following termination shall be made in accordance with 66 Pa.C.S. Chapter 14 and applicable regulations in Chapter 56.

(5) An NGDC shall agree to inform customers that service may be terminated for failure to pay NGS basic services charges by a separate bill insert that specifically describes the policy for termination of service.

(6) An enrollment letter issued by an NGDC at the time of selection of the NGS must inform customers that service may be terminated for failure to pay charges for basic services.

(c) *Transition plan for existing POR programs.*

(1) If the NGDC has an existing Commission-approved POR program that has a specific length of term, expressed in years or months, the Commission-approved POR program may continue until that term expires.

(2) The Commission will apply the POR program requirements in this section in its review of a new or updated POR program proposed by the NGDC.

(3) If the NGDC has an existing Commission-approved POR program without a defined term length, the NGDC shall update its POR program by April 14, 2015, to be consistent with this section.

§ 62.225. Release, assignment or transfer of capacity.

(a) An NGDC holding contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or a city natural gas distribution operation, may release, assign or transfer the capacity or Commonwealth supply, in whole or in part, associated with those contracts to licensed NGSs or large commercial or industrial customers on its system.

(1) A release, assignment or transfer must be made on a nondiscriminatory basis as to price, reliability and functionality.

(2) A release of an NGDC's pipeline and storage capacity assets must follow the customers for which the NGDC has procured the capacity, subject only to the NGDC's valid system reliability and Federal Energy Regulatory Commission constraints.

(3) A release, assignment or transfer must be based upon the applicable contract rate for capacity or Pennsylvania supply and be subject to applicable contractual arrangements and tariffs.

(4) The amount released, assigned or transferred must be sufficient to serve the level of the customers' requirements for which the NGDC has procured the capacity determined in accordance with the NGDC's tariff or procedures approved in its restructuring proceedings.

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