NATIONAL ENERGY MARKETERS ASSOCIATION

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November 26, 2013

The Honorable Kristi Izzo
Secretary
State of New Jersey
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350

Re: Docket No. GR13060447 – In the Matter of Public Service Electric and Gas Company's 2013/2014 Annual BGSS Commodity Charge Filing for its Residential Gas Customers Under its Periodic Pricing Mechanism

Dear Secretary Izzo:

The National Energy Marketers Association (NEM)[1] submits these letter comments on the October 23, 2013, filing of Public Service Electric and Gas (hereinafter "PSEG") regarding its BGSS-RSG pricing in the above-referenced proceeding. In the October 23rd filing PSEG gives notice of its intent to apply a self-implementing two-month bill credit of 35 cents per therm, to reduce the BGSS-RSG price from $0.543979 per therm to $0.193979 per therm for the period of November 1-December 31, 2013.

NEM files this letter to discuss the negative competitive market disruption caused by implementing the bill credit in the manner and at the time in which PSEG has chosen. Simply stated, the temporary $0.193979 per therm BGSS-RSG price does not reflect or even approximate current market conditions and drastically distorts the value of competitive offerings available in the marketplace that are accurately reflective of market-based pricing. In general, consumers and all other stakeholders would benefit from increased transparency as to the computation of BGSS commodity rates as well as the source, magnitude and timing of BGSS credits. The large price distortion caused by the bill credit is evidence that the BGSS rate setting mechanism should be reviewed and reformed. Additionally, customers that paid for PSEG commodity and capacity assets through BGSS rates during the time period when the overcollection occurred but are now receiving competitive supply service have been harmed and are not receiving any recompense.

[1] NEM is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

NEM requests that the Board examine the underlying regulatory construct that allows rate adjustments such as this that: undermine the functioning of the competitive market; deter TPSs from making competitive offerings available in the marketplace; and confuse and mislead consumers about the value of competitive products that they have or were considering purchasing.

I. Background

The Board issued an Order in January 2003 on the pricing structure of Basic Gas Supply Service (BGSS).[2] In the Order, the Board approved a settlement setting the terms by which the utilities would provide BGSS service to residential, small C&I and large C&I customers.[3] Under the settlement, residential and small C&I customers receiving utility commodity service receive a periodic BGSS price. The periodic BGSS price is subject to three potential price adjustments per year. The first price change takes effect on October 1st of each year corresponding with an annual BGSS filing, typically made months in advance of the October 1st date. The utility is also permitted to make two additional self-implementing rate increases on notice to the Board and Ratepayer advocate on November 1 and January 1 for changes to take effect on December 1 and February, respectively. With respect to BGSS rate decreases, the utility has the discretion to decrease rates, including rate reductions in the form of bill credits, at any time upon notice to the Board and Ratepayer Advocate.[4] In approving the settlement, the Board found that replacing the prior Levelized Gas Adjustment Clause process with the new BGSS pricing structure would provide improved pricing signals and support retail competition. It stated,

> The Board believes that customers benefit by having a price structure that is more consistent with market conditions. In doing so, customers will be able to make better informed energy consumption decisions. In addition, market based pricing is consistent with EDECA and is likely to enhance retail competition by reducing or eliminating artificial price structures and thereby placing regulated utility service on a more equal footing with that offered by competitive suppliers. Furthermore, adjusting rates as market conditions fluctuate will tend to reduce or eliminate price aberrations due to over/under-recoveries that are prevalent with annual or seasonal pricing.[5]

In accordance with the BGSS pricing structure adopted by the Board a decade ago, PSEG submitted its annual BGSS commodity charge filing on May 31, 2013, to set the BGSS commodity rate for the period October 1, 2013, through September 30, 2014, for residential gas customers.[6] It requested to maintain its then current BGSS-RSG commodity charge of $0.543979 per therm into the 2013/2014 period. As stated in Testimony from PSEG Witness Caffery,

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[2] Docket No. GX01050304, Order Approving BGSS Price Structure, dated January 6, 2003.
[3] Id.
[4] "Each GDC shall have the discretion to implement a bill credit, a refund or a self-implementing rate reduction without a cap at any time during the BGSS year with five days' notice to the Staff and the Ratepayer Advocate." Docket No. GX01050304, Order Approving BGSS Price Structure, Attachment A, para. 8.
[5] Docket No. GX01050304, Order Approving BGSS Price Structure, at page 3.
[6] Docket No. GR13060447, PSEG's Motion, Testimony of David F. Caffery, dated May 31, 2013.

> The BGSS-RSG Commodity rate would remain at the current charge of \$0.543979 per therm (including New Jersey Sales and use Tax, SUT). This charge is requested to remain in effect from October 1, 2013 through September 30, 2014 or the effective date of the Company's next periodic BGSS Commodity Charge filing, subject to the potential self-implementing increases discussed in the Company's Motion. The Company utilized May 21st NYMEX prices for the filing resulting in a small overrecovery at the end of September 2014 as shown in Item 7. This would normally result in a filing for a slight reduction in the BGSS-RSG rate effective October 1st. However, because of the recent volatility in the NYMEX over the last few weeks, the results have varied from a small increase in the rate to a small decrease. For that reason, as previously stated, **the Company is proposing to keep the current BGSS rate in effect for the upcoming BGSS period through September 2014. The Company would implement a one-month bill credit this winter, if the projections warrant it. There is no impact of this BGSS filing on either revenues or on a typical annual residential gas bill**.
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> The RSG customer class is expected to be over recovered by \$78.0 million by September 30, 2013. This period began with an over recovery of \$34.8 million (including the interest rollover). The primary reason for the increase in the overrecovery balance during this period is the higher than normal Off-System Sales & Capacity Release margins realized during the 2013/2013 winter period. The activity during this period was unprecedented and can be attributed to both the cold regional temperatures and the timing of weather patterns which occurred over weekend periods resulting in additional days with higher gas prices. (Caffery Testimony, pages 1-2) (Emphasis added).

PSEG offered further explanation of its decision to retain the BGSS-RSG rate from the previous year. It stated,

> "Price levels in the natural gas market have been volatile over the past several months and have increased over the past twelve months, but continue to remain at relatively reasonable levels in comparison to the higher prices experienced during previous periods. It is anticipated that this level of gas prices will continue for the 2013-2014 BGSS period, with prices rising moderately during the 2013/2014 winter months in response to the seasonal increase in demand.
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> The May 21, 2013 NYMEX strip which is used in this filing illustrates a gradual increase in prices throughout most of the 2013-2014 BGSS period. **Although the overall trend in prices is modestly upward, any substantial upward pressure on prices during this period should be tempered by a combination of continued sluggish US economic growth, and the availability of increased gas production in response to higher market prices, particularly from shale gas supplies**." (PSEG Motion, paras. 21 and 22).

The Company's testimony highlights the large amount of discretion that is given to utilities in the BGSS rate setting process. In summary, PSEG decided to retain BGSS-RSG at the same rate as the previous year, stating it would utilize a bill credit, if conditions warranted it, to compensate customers for over-collections from the BGSS rate. The BGSS-RSG rate for 2013-2014 was also constructed to include a credit for the $78 million over-recovery from the previous year, lowering the BGSS-RSG rate down by 6.4110 cents/therm.[7] This is a separate issue from the current two month credit, which has an additional distortionary impact on the rate, divorcing it further from market conditions.

Subsequently, as alluded to in its May 31st Filing, PSEG submitted a filing to the Board on October 23, 2013, to apply a self-implementing two-month bill credit for its BGSS-RSG customers. The credit, in the amount of 35 cents per therm, reduces PSEG's BGSS-RSG Commodity Charge from $0.543979 per therm to $0.193979 per therm for the temporary period of November 1 through December 31, 2013. The rationale offered in the October 23rd filing for the credit is that, "The NYMEX prices have continued a downward trend since the Company's BGSS filing of May 31, 2013. That filing requested that the current rate remain in effect through September 30, 2014 but discussed the possibility of a future Bill Credit." The filing did not include work papers or other quantitative supporting documents to explain the source of the credit or how it was computed. PSEG also issued a press release about the bill credit, remarking that, "Our close proximity to the abundance of gas supply in the Marcellus Shale Formation in Pennsylvania, plus our transportation and storage capabilities and the way we manage our pipeline contracts, enabled us to seize this opportunity to once again reduce costs for our customers."[8]

II. Impact of BGSS Pricing Distortions on the Competitive Retail Market

The Board adopted the BGSS pricing structure in 2003 with the goal of, "having a price structure that is more consistent with market conditions" and to "enhance retail competition" by utilizing a pricing mechanism "to reduce or eliminate price aberrations due to over/under-recoveries." NEM supports the Board in achieving this goal. However, we submit that the BGSS pricing mechanism, after a decade's worth of experience, particularly with respect to the unfettered discretion of the utility to decrease rates on a few days notice is, has in fact acted to hinder retail competition and harm consumers and competitive suppliers.

The manner and timing of implementation of a utility credit matters in a competitive retail market in a way that it did not during the historic, vertically integrated utility monopoly era. Offering a 35 cent per therm bill credit to natural gas consumers during the peak winter heating season, distorts the price signal being sent to consumers and is not reflective of actual market conditions. A BGSS-RSG rate of $0.193979 per therm undermines all competitive offerings in the marketplace. Consumers are unlikely to understand that this temporary, two month BGSS-RSG price is completely inapposite to competitive offerings, the duration of which may vary and should not be evaluated in a narrow, two month window.

[7] Item 2 and Item 7 of Attachments to May 31, 2013, PSEG Filing.
[8] PSEG Press Release, "PSE&G Cuts Gas Bills by a Third for November and December Usage," dated October 23, 2013.

PSEG maintained in its press release that its access to Marcellus gas and optimization of its transportation and storage assets allowed it to offer the 35 cent per therm credit. That being the case, PSEG should have disclosed these details in its October 23rd filing. Although not stated in its October 23rd filing, the inference is that PSEG was overcollecting from customers since its annual BGSS filing an apparently significant amount to cause the implementation of a 35 cent per therm credit. Additional disclosure would be helpful in understanding whether this credit could have been applied earlier to avoid a large build up of over-collected costs.

An additional distortion caused by the BGSS-RSG bill credit is that there are consumers that were receiving BGSS commodity service from PSEG and paid into the overcollection but subsequently switched to a competitive supplier and are not now receiving a reimbursement for their overpayment.

As illustrated by the foregoing, NEM submits that the BGSS pricing mechanism has had unintended anticompetitive market impacts that have come to light when brought into practice in the decade since its inception. In the instant case, implementing a 35 cent per therm, temporary commodity BGSS commodity rate bill credit at peak winter heating season when consumers are actively shopping to evaluate and obtain the optimum competitive offer, and competitive suppliers are actively marketing same to consumers, has the effect of distorting the price to compare, misinforming and confusing consumers and understating the comparative value of competitive products. There is a general lack of transparency in BGSS rate and credit computations that prevents TPSs from operating on a level playing field. This problem is further magnified by the significant discretion conferred upon the utility to implement bill credits.

Conclusion

NEM appreciates this opportunity to provide its view on the negative impact of the BGSS rate setting process and resultant pricing distortions on retail natural gas market competition.

Respectfully submitted,

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