STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on March 15, 2018

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Gregg C. Sayre
Diane X. Burman
James S. Alesi

CASE 15-G-0101 - Petition of the Small Customer Marketer Coalition to Examine and Revise the Mechanism for the Annual Reconciliation of Gas Expense and Gas Cost Recoveries.

ORDER DENYING THE INVESTIGATION AND EXAMINATION OF THE ANNUAL GAS COST RECONCILIATION AND ALTERNATIVE COST RECOVERY MECHANISM

(Issued and Effective March 19, 2018)

BY THE COMMISSION:

INTRODUCTION

On February 24, 2015, the Small Customer Marketer Coalition (SCMC) filed a petition requesting that the Commission institute an investigation to examine the Annual Reconciliation of Gas Expenses and Gas Cost Recoveries governed by NYCRR §720.6.5 and examine an alternative cost recovery mechanism that would ensure that the monthly gas adjustment clauses (GAC) are truly reflective of current market costs (the Petition). By this order, the Commission determines that the current gas recovery mechanism remains the most appropriate mechanism that best balances timely recovery of gas costs and bill volatility. Therefore, the Petition is denied.

PETITION

The SCMC petitioned the Commission to institute an investigation to examine the annual reconciliation of gas expenses and gas cost recoveries and examine an alternative cost recovery mechanism that would ensure that the monthly GAC, which sometimes are referred to as the Gas Supply Charge (GSC) or Gas Cost Factor (GCF), is truly reflective of current market costs. The SCMC states that the current methodology allows refunding or surcharging the result of the annual reconciliations in the following billing cycle. The result, according to the SCMC, is that the monthly gas commodity rates do not represent the most current and accurate costs associated with supply for the applicable billing period since current costs are modified by incorporating the refund or surcharge. Additionally, the SCMC believes that the inclusion of material out of period cost adjustments in rates undermines the transparency and relevance of the current utility commodity pricing.

The SCMC claims that a refund rate of $1.03 per dekatherm (Dth) instituted by Consolidated Edison Company of New York, Inc. (Con Edison) in the 2015 calendar year created a dramatic and whole sale revision of the market price. At an estimated monthly cost of $4.00 per Dth, the application of the credit reduced the market price by 26%. Similarly, the application of the annual reconciliation refund rate also impacted the market price signals to customers at Orange and Rockland Utilities, Inc. (O&R). The annual reconciliation, the SCMC continues, will also result in significant surcharges, and distort pricing signals to customers in The Brooklyn Union Gas Company and KeySpan Gas East Corporation (National Grid Downstate) and Central Hudson Gas & Electric Corp. (Central Hudson) service territories.

The SCMC stresses that the annual reconciliation process dates from 1953 and was last modified more than 15 years ago; therefore, the SCMC believes it would be reasonable to reexamine the reconciliation process to assess its efficacy in light of the significant changes that have occurred in the energy markets over the past 65 years. The SCMC also reasoned that presenting inaccurate pricing information to consumers undermines, if not eviscerates, the Commission's efforts to reform the energy vision since it would not follow the core policy of ensuring the availability of tools to procure supply and services that customers value. The SCMC stated that, since the utilities have implemented a web based price calculator that allows retail customers to compare what they would have paid as a full service utility customer, it is imperative that utility pricing be reflective of actual market costs.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on March 25, 2015. The time for submission of comments pursuant to the Notice expired on May 9, 2015. The comments received are summarized below.

PUBLIC COMMENTS

Retail Energy Supply Association, Direct Energy, IDT Energy, Inc., New York Gas and Electric, and IGS Energy all filed comments in support of granting the relief sought in the SCMC Petition. These commenters state that the Petition correctly noted that the existing cost recovery mechanism provides inaccurate pricing information to consumers and undermines the Commission's efforts to reform the energy vision.

Infinite Energy, New York State Energy Marketers Coalition, and Marathon Energy also filed comments in support of granting the relief sought by the SCMC. These commenters state that such an examination is especially timely in light of the Commission's ongoing proceeding on Reforming the Energy Vision. According to these commenters, as it currently operates, the annual reconciliation process frustrates these important objectives in two ways. First, the cost recovery mechanisms preclude clear and accurate price signals which help energy customers by ensuring they have the pricing information they need to make informed energy decisions. Second, the annual reconciliation process may injure customers in New York who choose to shop for their energy in the market. These commenters offer that, based on the current regulations, a former customer of the utility who is overcharged one year and who chooses services from an Energy Service Company (ESCO) in the next year will not be refunded during the next year's reconciliation process.

New York State Electric and Gas Corp. (NYSEG) and Rochester Gas and Electric Corp. (RG&E) submitted comments requesting the Commission deny the SCMC petition because there is no need to change the annual reconciliation process. As permitted in the GAC regulations, one tool NYSEG and RG&E employ to help mitigate large out-of-period costs is an interim reconciliation which allows gas local distribution companies (LDCs) to collect or surcharge any projected over- or under-collection of gas costs in the current gas year. NYSEG and RG&E argue that they work diligently to minimize the magnitude of the over- or under-collection of gas costs through the annual reconciliation. According to NYSEG and RG&E, monitoring gas cost expenses and recoveries in the current year and employing an interim reconciliation, if necessary, as provided in the

Regulations[1] helps minimize potentially large over- or under-collections of gas costs.

LEGAL AUTHORITY

Under Public Service Law (PSL) §65(1), gas corporations are required to ensure the provision of utility "service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable." Furthermore, this section provides that "[a]ll charges made or demanded by any such gas corporation ... shall be just and reasonable and not more than allowed by law or by order of the commission." Moreover, the Commission has broad discretion under PSL §66(5) to determine "upon its own motion or upon complaint, that the rates, charges or classifications or the acts or regulations of any such ... corporation ... are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of any provision of law ...." The matters raised in the Petition fall within the ambit of this authority.

DISCUSSION

Alternative Cost Recovery Mechanism

Due to the nature of forecasting, there will always be a discrepancy between the actual cost of gas incurred and the forecasted cost that is recovered from customers. This difference must be reconciled per the Rules and Regulations and also to eliminate any incentives for the LDCs to under or overestimate the monthly cost of gas. This difference is magnified during the winter months, where as much as 60% of total gas sales occur over this four-month period.[2]

---

[1] 16 NYCRR §720-6.5(G)(6).

[2] The four-month period includes half of November, the full months from December to February and half of March.

Additionally, as much as 80% of total residential sales are dependent on the weather; this dependence on weather increases the difficulty in accurately forecasting revenue collections.

The comments were reviewed and considered, but ultimately, the Commission has determined that the current annual GAC reconciliation remains the most appropriate available mechanism for the reasons discussed below. Alternative mechanisms, which alter the frequency of the reconciliation, can impact the volatility of the rates charged to customers. Shorter reconciliation periods can introduce more volatility, especially in the winter months where the majority of customer's annual usage occurs. Reconciliation periods longer than one year can reduce bill volatility but can create inequities as customers move on and off the system, or migrate to and from ESCOs. The annual GAC reconciliation strikes the balance between minimizing these inequalities and mitigating rate volatility. Moreover, LDCs closely monitor the GAC imbalance and often file for interim GAC rates allowing for timelier cost recovery, and minimize the total GAC imbalance that would have to be recovered in another period. The SCMC claimed that because the annual reconciliation dates from 1953 and was last modified more than 15 years ago, it would be reasonable to reexamine the reconciliation process to assess its efficacy in light of the significant changes that have occurred in the energy markets. Although the Commission agrees that there have been significant changes to the energy markets, the underlying issue and need for the annual reconciliation remains the same, which is the utility's lack of ability to control the capacity and commodity cost of gas. The capacity costs are regulated and determined by the Federal Energy Regulatory Commission while the commodity cost is established by the competitive market.

The Commission also explored the possibility of excluding the annual reconciliation rate in the monthly GAC; however, we believe the annual reconciliation should continue to be included in the cost of gas for several reasons. First, although the reconciliation rate reflects adjustments from a prior period, this is no different than the current hedging practices or the utilization of storage gas where costs do not necessarily reflect current market costs. Moreover, in certain cases, storage gas contains commodity costs that were procured from a prior period which may date back further than the prior period included in the GAC reconciliation. Second, it is important to note that one of the main purposes of the GAC mechanism is to allow recovery of the utility’s commodity cost. Reconciliations of the prior period are an actual cost and should be appropriately included in the gas cost. Third, as previously discussed, the annual reconciliation eliminates the potential incentive to overestimate gas costs and recognizes that the commodity and capacity costs are beyond the control of the gas LDCs. Finally, the current mechanisms allow LDCs the flexibility to implement interim reconciliation rates to minimize the GAC imbalance. Many LDCs also have taken other measures, discussed below, to reduce the potential GAC imbalance and its affect to the commodity cost since this petition was filed.

Minimizing the Impact on the GAC

The SCMC cited several instances, including Con Edison’s refund rate of 1.028 per Dth and O&R’s refund rate of $1.373 per Dth for the 2015 calendar year, which the SCMC claims impacted the commodity market. It is noted that the 2015 reconciliation rate reconciles the costs and revenues from the 12-month period ended August 31, 2014. Almost all of the major gas LDCs in New York State, including National Grid Downstate and Central Hudson, experienced major gas cost imbalances which subsequently had to flow back to customers during the 2015 calendar year. It is important to note that the magnitude of the imbalance for that year was the result of one of the coldest twelve-month periods New York State has faced in the past 30 years, New York City reported 4,376 Heating Degree Days - approximately 9.1% colder than normal weather. This 12-month period also contained the prolonged period of extreme weather which broke low temperature records in many areas including a 116-year old record in New York City, which experienced a low temperature of 4 degrees Fahrenheit. The impact of weather should be carefully considered when determining if the current GAC reconciliation mechanism should be replaced. The basis of any modification to the mechanism should not be solely dependent on a record cold winter which created a major gas cost recovery imbalance in one particular year.

The SCMC was particularly concerned with Con Edison's GCF which reduced the utility's commodity price by 26%. We note that although the cold weather was a major factor in the large refund rate, a significant portion of the reconciliation rate was also attributed to refunding customers pursuant to Case 10-G-0643.[3] Due to an error associated with the calculation of lost and unaccounted for gas in the historic period of September 2004 to August 2010, Con Edison was ordered to reallocate the associated cost from the annual reconciliation to the monthly rate adjustment. This refund to customers through the GCF has since sunset and no longer affects the GCF rate which should

[3] Case 10-G-0643, Proceeding on Motion of the Commission to Examine Consolidated Edison Company of New York's Historical LAUF Calculations and Their Impact on Historical and Current LAUF Incentives, Order Directing Historic and Prospective Lost and Unaccounted for Gas Incentive Corrections and Directing Company to File Proposal (issued September 16, 2011).

better align the utility gas price with the market prices and help alleviate one of the SCMC's concerns. Although this charge no longer exists, similar charges may arise that could affect the monthly GCF. The future inclusion of extraordinary charges or refunds in the GCF will be determined on a case by case basis.

Although weather, which is beyond the LDC's control, is a major driver of the annual gas cost imbalance, certain LDCs have under gone changes or currently have procedures to try to minimize the annual gas cost imbalance. All of the gas LDCs have the ability to monitor the gas cost imbalance and implement an interim gas cost rate, as necessary, to ensure current rates are reflective of current costs and minimize the end of period imbalances. As discussed in the comments filed by NYSEG and RG&E, interim adjustments are a tool the LDCs utilize to help mitigate large out-of-period costs.

Furthermore, National Grid petitioned the Commission for a limited waiver of §720-6.5(b) that requires the Company to file statements not less than three days prior to the effective date. The waiver allows National Grid to file GAC statements on less than 2 business days' notice.[4] This waiver allows National Grid to utilize the latest available NYMEX futures closing prices which assists in providing a more accurate forecast of monthly gas costs and can result in a lower annual GAC imbalance.

Additionally, Central Hudson has modified its estimation of winter unbundled sales to enhance its forecasting

---

[4] Cases 10-G-0159, et al., Tariff filing by Niagara Mohawk Power Corporation to revise its gas adjustment provisions to allow the company to file its monthly gas adjustment on less than three day's notice to the Commission, Recommendation and Order (issued August 19, 2010).

methodology after it experienced a season with significant gas cost imbalance. Since the SCMC Petition was filed, Con Edison, O&R and the National Grid Downstate Companies, have recently modified their retail access programs to allow ESCOs to have more control of the amount of gas being nominated which would result in lower monthly cash outs and subsequently would lower the annual GAC imbalance. These LDCs no longer use a single pricing point of Transco Zone 6, as this pricing point was extremely volatile during the 2014 winter. These LDCs have transitioned to the use of average prices from multiple price points which would reduce price volatility and the magnitude of the monthly cash outs.

The retail access programs of the National Grid Downstate Companies, Con Edison, and O&R were also modified to give ESCOs more control over the capacity assets utilized to bring gas into the service territories. These new programs were designed to allow ESCOs the ability to modify daily delivery quantities on a day-to-day basis rather than month-to-month basis. This gives ESCOs better access to the LDC gas control operation which will protect reliability and also minimize the potential cash outs because it allows the ESCO to accurately determine the amount and which assets to be utilized to serve its customers.

CONCLUSION

Our examination of the Annual Reconciliation of Gas Expenses and Gas Cost Recoveries governed by NYCRR §720.6.5, as described above, has determined that an alternative cost recovery mechanism is unnecessary. The SCMC's concerns have been addressed through various utility operational changes and can be addressed with the current tools available to the LDCs which would reduce the potential imbalance to minimize the future out of period adjustments. The Petition is therefore denied.

The Commission orders:

1. The Petition of the Small Customer Marketer Coalition is denied for the reasons discussed in the body of this Order.

2. This proceeding is closed.

By the Commission,

(SIGNED) KATHLEEN H. BURGESS
Secretary