STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on October 18, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 09-G-0716 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Gas Service.

CASE 09-G-0718 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Rochester Gas and Electric Corporation for Gas Service.

ORDER ADOPTING REVISED GAS SUPPLY PROCEDURES AND REQUIREMENTS AND DIRECTING TARIFF FILINGS

(Issued and Effective October 18, 2012)

BY THE COMMISSION:

BACKGROUND

In the Rate Plan Order,[1] New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E) (collectively, the Companies) were directed to institute a Gas Supply Collaborative (the Collaborative) process to more fully consider gas supply issues not otherwise resolved in these

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[1] Cases 09-G-0716 and 09-G-0718, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation, Order Establishing Rate Plan (issued September 21, 2010)(Joint Proposal, App. V).

proceedings. Beginning November 17, 2010, the Companies, Department of Public Service Staff, energy service companies (ESCOs) and other interested parties participated in a series of collaborative meetings to consider analyses and discuss proposals related to the items listed for further review in the Rate Plan Order. Those items included:

a) Impacts of the Gas Supply Area (“GSA”) consolidation on mandatory capacity release assignment program pricing and the derivation of the Gas Reliability Surcharge;

b) Completing consolidation of NYSEG's GSAs;

c) The costs and ramifications of and methodology for releasing capacity to energy service companies at the system weighted average cost of capacity (“WACOC”);

d) Upstream pipeline cost overrun issues; and

e) Separately identifying balancing charges on NYSEG interruptible sales service customer invoices and implementing auto-balancing for daily metered customer pools at NYSEG and RG&E.

During the meetings, the Collaborative participants provided input and shared positions on various topics. While the primary emphasis of these discussions focused on further GSA consolidation and the use of the WACOC for pricing released capacity, proposals for resolving the other issues were thoroughly vetted as well.

On August 3, 2012, the Companies filed a Report On Gas Supply Collaborative (the Report), and associated schedules, detailing the modifications they propose to the Rate Plan adopted in the Rate Plan Order as a result of the Collaborative. The Report provides an overview of the issues discussed in the Collaborative and sets forth the Companies’ positions, having taken into consideration parties’ comments, input and feedback provided during the Collaborative discussions.

In conformance with State Administrative Procedure Act (SAPA) §202(1), notice of the Report was published in the State Register on August 22, 2012. The SAPA §202(1)(a) period for submitting comments in response to the notice expired on October 9, 2012. Timely comments were filed by Stand Energy Corporation (Stand Energy) and the ESCO Parties;[2] the Companies also filed responsive comments prior to expiration of the comment period.

THE REPORT

In their Report, the Companies make a number of proposals. They recommend consolidating NYSEG's two remaining GSAs into a single GSA, effective September 1, 2013, which coincides with the commencement of the year used for Gas Supply Charge (GSC) reconciliation purposes. Consolidation would combine into one charge each the GSC, the Merchant Function Charge (MFC), the Transition Surcharge (TS) and the Reliability Surcharge (RS) that are currently each calculated separately for the two existing GSAs. Transportation Balancing Charges (TBC) would be consolidated over a phase-in period commencing on September 1, 2013 and ending on April 1, 2014. Moreover, consistent with the consolidation into a single GSA, the Companies propose to adopt a single NYSEG system-wide WACOC for the release of capacity to ESCOs serving aggregation customers. The introduction of the single WACOC would be accomplished over a phase-in period commencing on April 1, 2013 and ending on April 1, 2014.

The Companies also recommend other modifications to existing gas supply policies and procedures. They would amend the NYSEG and RG&E tariffs to clarify the right to collect incremental upstream pipeline costs they incur because of ESCOs,

[2] The ESCO Parties consist of the Retail Energy Supply Association, the Small Customer Marketer Coalition, and Empire Natural Gas Corporation.

in addition to the existing 10% balancing threshold collection provision applicable to ESCO-caused costs. Balancing charges would be identified separately in pricing offers NYSEG makes to interruptible supply service customers. Auto-balancing would be implemented in performing daily metered cash out calculations. During the semi-annual Gas Marketers Operating Group (GMOG) meetings, participants would be updated on changes to the Companies' gas capacity supply portfolios. To the extent their proposals are adopted, the Companies affirm they will file any revisions to their tariff provisions needed to implement the proposals.

Turning to the issue of consolidating NYSEG's two existing GSA areas into one, the Companies note that, in the Rate Plan, NYSEG previously consolidated three pre-existing GSAs into the two now-extent GSAs, denominated as GSA 1/3 and GSA 2. The proposed consolidation into one GSA, the Companies believe, will also resolve any outstanding issues related to the prior consolidation into the two existing GSAs.

In order to assess the impacts of moving to a single GSA, the Companies report, NYSEG calculated GFC, MFC, TS and RS charges based on December 2011 costs, adjusted for reductions to TransCanada Pipeline (TCPL) entitlement costs that take effect on November 1, 2012. NYSEG then conducted a bill impact analysis comparing rates prior to and after the consolidation. The calculations show that residential and small commercial customers in GSA 1/3 will realize bill reductions of up to about 1.0% as a result of the consolidation, while those customers in GSA 2 will experience bill increases of up to about 2.9%. Believing that these bill impacts are acceptable given the benefits that will be realized from consolidation, NYSEG proposes to implement the consolidation into one system-wide GSA effective September 1, 2013. To ameliorate the impact of moving to a system-wide TBC, NYSEG would phase in the new charge by setting it, beginning September 1, 2013, at the then-current TBC in each GSA plus 50% of the difference between the combined TBC for both GSAs less the then-current TBC. Full consolidation of the TBC would be achieved beginning April 1, 2014.

NYSEG explains that consolidating into a single GSA benefits customers because the result is to reflect a broader diversity of supply costs in the monthly GSC. Since it buys gas in many different markets and pooling areas, NYSEG continues, the price swings in any one area are mitigated upon GSA consolidation, in comparison to the greater volatility impacts that would be experienced if separate purchases were recognized in separate GSCs for separate GSAs. NYSEG claimed the resulting mitigation of price volatility is consistent with Commission policy.[3] NYSEG adds that the timing of consolidating into one GSA now is advantageous, because gas commodity prices are low and the reductions to the TCPL entitlement costs are imminent.

Consolidation of the GSAs, NYSEG notes, is readily accompanied by the adoption of a single system-wide WACOC for pricing capacity released to ESCOs serving aggregation customers. NYSEG sets forth a detailed WACOC calculation for that pricing. A benefit of a single WACOC, NYSEG continues, is that it includes all costs incurred to serve ESCO aggregation customers. NYSEG believes that the existing separate release prices in the two separate GSAs may fail to charge to ESCO customers all the costs of serving them, while NYSEG sales customers do pay all of those costs. The disparity, NYSEG complains, unreasonably shifts to its supply customers costs that ESCO supply customers should bear. NYSEG posits that the cause of the disparity may be found in unassigned capacity costs

[3] See Case 97-G-0600, Statement of Policy Regarding Gas Purchasing Practices (issued April 28, 1998).

not readily allocated to different specific GSAs, but more readily assigned properly on a system-wide basis.

NYSEG voices its opposition to devising separate WACOC calculations for separate geographic areas and locations. The task of assigning separate pipeline and pooling area costs to separate geographic areas, it complains, is difficult and prone to error. A single blended WACOC applicable to its entire service territory, NYSEG asserts, avoids those difficulties and also recognizes that the utility’s entire capacity portfolio broadly supports its larger system and enables it to maintain overall system integrity.

NYSEG, however, does propose a few necessary exceptions to the single blended WACOC. It would release a pro-rata share of the Columbia Gulf Transportation Company (Columbia Gulf) capacity to ESCOs serving customers in the Binghamton area, to eliminate the potential for stranding that capacity, and make other minor adjustments to the provisions for its release. Similarly, Dominion Transmission, Inc. (DTI) capacity would be released to ESCOs serving aggregation customers in the Plattsburgh area.

To ensure that ESCOs understand the development of the WACOC release price it proposes, NYSEG sets forth a detailed set of procedures for calculating the price. In addition, to address ESCO concerns that moving to a system-wide WACOC might adversely impact some of their customers, NYSEG proposes a phase-in period. Beginning on April 1, 2013, the release price would be set at the then-current release prices in the two GSAs plus 50% of the WACOC less the then-current capacity release price by pool area. Beginning on April 1, 2014, the release price will be set at the WACOC for all pool areas unless the resulting adjustment would exceed 125% of the WACOC adjustment made in the first phase. If that were to occur, the adjustment on April 1, 2014 would be capped at the 125% amount. Beginning as of November 1, 2014, the single system-wide WACOC release price would be set at the fully blended WACOC.

The Companies propose to amend their tariffs to clarify their right to collect incremental upstream pipeline costs incurred because of ESCOs, in addition to the ESCO-caused costs collected through the existing 10% balancing provision. The Companies believe these amendments will mitigate the impact of ESCO cost overruns on their firm sales customers. The Companies state they will undertake the obligation to demonstrate the incremental costs charged to the ESCOs are warranted and are taken from properly itemized transportation invoices. Moreover, NYSEG reports that it now separately identifies balancing charges in making pricing offers for supply to interruptible customers (RG&E does not offer that type of interruptible supply service).

The Companies would also implement pool-by-pool auto-balancing for daily metered cash-out calculations. The Companies describe the procedures and processes for moving to auto-balancing. Finally, the Companies promise to provide updates on changes to their capacity portfolios during GMOG meetings.

THE COMMENTS

The ESCO Parties

The ESCO Parties present a number of modifications they would make to the proposals the Companies set forth in their Report. While the ESCO parties do not object to setting a single blended WACOC, they believe that this approach is less economically efficient than creating separate WACOC values for separately delineated geographic areas. Notwithstanding that the ESCO Parties decline to oppose the single WACOC, they argue that additional time is needed to phase into the fully blended single WACOC, in order to avoid adverse impacts affecting existing longer-term contracts ESCOs have entered into with their customers and to ameliorate significant rate increases they believe will be incurred in certain areas.

The ESCO parties object to the initiation of the single WACOC as of April 1, 2013, which, they point out, is six months prior to the consolidation, scheduled for September 1, 2013, of the two existing GSAs into a single GSA. The ESCO parties assert that a single WACOC is inextricably linked to a single GSA, and that severing the introduction of one from the other will cause confusion. The ESCO parties would instead phase-in the single WACOC commencing with implementation of 50% of the change on September 1, 2013 when the single GSA is implemented, and the remaining 50% implemented on September 1, 2014. The ESCO Parties argue that this phase-in schedule will enable ESCOs to better accommodate their existing long-term contracts to the change in policy, and will assist customers in assimilating sometimes-significant rate increases.

According to the ESCO Parties, the impact of the rate increases the move to a single WACOC causes will fall most heavily on transportation customers, who are currently billed for the service at charges calculated separately by geographic area. The Companies, the ESCO Parties complain, have failed to identify or illustrate the impact of the new policy on the rates charged those transportation customers in the various geographic areas. The ESCO Parties contend that the impacts are significant. They claim that, in the existing DTI area covering 60% of NYSEG’s gas service territory and consisting primarily of Elmira, Ithaca, Oneonta, and other central New York locations, residential customers will experience an 8.8% increase and commercial customers a 9.4% increase as a result of the single WACOC.

The ESCO Parties also contend that the Report is deficient because it does not identify a mechanism for adjusting over-and-under collections of the WACOC. The ESCO Parties believe such a mechanism should be fully delineated, and they should be allowed to analyze and comment on it prior to its implementation. To further ensure that the effect of the change in WACOC policy is fully evaluated, the ESCO Parties recommend that NYSEG should be directed to report on the number of transportation and sales customers that existed before and after institution of the single WACOC. These figures, the ESCO Parties assert, would assist in assessing the impact on competitive markets of the movement to a single WACOC.

The ESCO Parties also believe that a forum for review, analysis and comment on the Companies' gas capacity retention and acquisition activities is needed. The single WACOC, the ESCO parties maintain, will materially affect their operations, and they should be afforded an opportunity to express their views on those activities that drive the WACOC calculation. Merely updating ESCOs on capacity activities during GMOG meetings, the ESCO Parties complain, is inadequate to enable them to engage in the capacity retention and acquisition process in any meaningful way.

Although they do not oppose auto-balancing, the ESCO Parties complain that the Companies have failed to propose an implementation date for commencing the service. The ESCO parties believe the Companies should be directed to formulate a timetable identifying the steps that must be taken in order to commence operation of the auto-balancing system, and the date targeted for commencement. The ESCO Parties also argue that auto-balancing should not be implemented prior to the institution of the single WACOC. Since the costs of implementing the auto-balancing system are applicable to all customers, the ESCOs would include the recovery of those costs in distribution rates.

Stand Energy

Stand Energy opposes the adoption of a single WACOC. It complains that there is no basis for charging customers in low-cost zones for the more expensive capacity provided in other higher-cost zones. NYSEG, Stand believes, long defended its separate zones, and Stand sees the utility's acquiescence to the single WACOC as motivated by the declining value of some of its legacy capacity. Stand also argues that the benefits accompanying adoption of a single GSA and a single WACOC are not sufficient to offset the detriments.

Stand criticizes auto-balancing, which, it believes, replaces daily imbalance flexibility with daily cash-outs at a 0% imbalance. Stand argues that auto-balancing therefore, in effect, requires customers to forecast their usage with 100% accuracy. This result, it claims, is inconsistent with industry standards and will essentially raise customer rates, while NYSEG will realize substantial new revenues from the process. Consequently, Stand maintains auto-balancing is unreasonable and it opposes to any changes to current daily balancing practices.

The Companies

In their responsive comments, the Companies address various issues raised by the ESCO Parties, and begin with a defense of the dates selected for the commencement of the WACOC and GSA consolidations. Commencing the single WACOC on April 1, 2013, the Companies point out, matches the date the natural gas storage injection season commences. Commencing the GSA consolidation subsequently on September 1, 2013, the Companies maintain, prevents impacts that could occur if the WACOC and GSA consolidations were introduced at the same time, and further reduces impacts because September is a low-use month. That date is also the beginning of the year used for gas charge reconciliation calculations.

Criticizing the ESCO Parties' race impact analysis, the Companies point out that the outcome of that analysis is a function of the ESCOs' contractual relationships with their customers. The Companies assert that they are not privy to that contractual relationship and should not be required to intrude into it. They also argue that whatever impacts may occur are due in part to the elimination, which should be accomplished expeditiously, of the improper cross-subsidization of ESCO supply customers by NYSEG supply customers.

Responding to the ESCO Parties' argument that a more detailed mechanism is needed to address over-and-under collections of the WACOC, the Companies note that their mechanism provides for a threshold limit above which the WACOC is reset. According to the Companies, the reset mechanism eliminates the need for a separate reconciliation process.

Addressing the ESCO Parties' informational proposals, the Companies claim that additional reporting on customer migration is not needed because existing reporting requirements are adequate. The Companies oppose instituting a capacity procurement and reliability collaborative because it would be improper for it to collaborate on its statutory obligation to obtain the capacity necessary to serve its customers reliably.

Turning to auto-balancing, the Companies describe it as merely a software application tied to the new Electronic Bulletin Board that is currently under development. Auto-balancing, the Companies maintain, affects only daily metered customer pools while the single WACOC is applied to non-daily metered customer pools. As a result, implementation of auto-balancing is not related to the single WACOC consolidation.

DISCUSSION AND CONCLUSION

The criticisms the ESCOs and Stand Energy marshall against the recommendations the Companies make in their Report lack merit. Those recommendations are adopted, for the reasons discussed below.

Contrary to Stand Energy's position, and the ESCO Parties' implication, the consolidation of the WACOC and the GSAs benefits ratepayer without impeding the development of competitive markets. The consolidation merely results in the combination of the WACOC and other existing gas supply charges, currently calculated separately for each GSA, into one set of charges applicable across NYSEG's entire service territory. As the Companies point out, the consolidation is justified because their portfolio of gas supply arrangements underlying the gas supply charges generally supports the provision of commodity supply throughout their service territory, and so customers generally benefit from the portfolio as a whole. Moreover, consolidation ensures that costs are properly allocated, instead of the current circumstances, where utility supply customers likely shoulder costs that should be the responsibility of ESCO supply customers.

The Companies have also made two adjustments to the operation of the WACOC, in the Binghamton and Plattsburgh areas, where geographic configuration results in circumstances that dictate allocation of a few specific capacity arrangements on a geographic basis. The nature and location of the Columbia Gulf and DTI facilities serving those areas, and the absence of appropriate alternatives, supports the adjustments as proposed to the functioning of the WACOC, without unduly disturbing the calculation of the single blended WACOC generally. The adjustments assure that capacity is allocated properly, which facilitates the smooth functioning of the competitive market.[4] As a result, the WACOC consolidation has been correctly performed and is appropriate.

Contrary to the arguments the ESCO Parties make, the phase-in proposals the Companies present are reasonable. As the Companies point out, April 1, 2013 is an appropriate date to commence the single blended WACOC consolidation, because it coincides with the beginning of the natural gas storage injection season. September 1, 2013 is an appropriate time for commencing the consolidation of the other GSA charges because September is a low-use month and is the beginning of the gas charge reconciliation period.

Initiating the single WACOC as of April 1, 2013, six months prior to the consolidated of the GSAs, does not improperly sever introduction of the single WACOC from the GSA consolidation; the WACOC and other GSA charges are not inextricably linked. Because the single WACOC is merely one charge among the many addressed in the Report, nothing prevents its separation from the other charges for introduction at a separate time. Nor does the earlier introduction of the single WACOC obstruct the accurate calculation of the other charges introduced later.

Staggering the schedule for the introduction of the charges by introducing the single WACOC first, benefits ratepayers. Introducing the charges separately ameliorates the rate impacts that may occur, as the effect of the single WACOC

[4] Properly allocating use of the Columbia Gulf capacity enables ESCOs to more readily access that capacity; this arrangement, however, will require further review at a time sufficient to address the expiration of the Columbia Gulf capacity contracts on December 31, 2019.

is experienced over a six month period of adjustment before the impact of the consolidation of the additional changes is confronted. Providing for such a phase-in by introducing new charges at different times is appropriate.

Moreover, commencing introduction of the single WACOC before the GSA consolidation also insures that costs reflected in the WACOC are properly allocated between utility supply customers and ESCO supply customers. As discussed above, it is likely that utility supply customers currently bear some costs that should be allocated to ESCO supply customers. Ending this improper cost subsidization expeditiously justifies introducing the single WACOC at a time earlier than the GSA consolidation.

The schedule for phase-in to the single WACOC that the Companies propose is also properly structured and scheduled. The modifications the ESCO Parties propound -- to delay commencement and conclusion of the phase-in -- are not justified by their references to the terms of the long-term contracts they may have entered into with their customers. Because the process of moving to a single WACOC was commenced in the Rate Plan Order that was issued more than two years ago, ESCOs will have had sufficient time to adjust their contracts to accommodate the advent of the single WACOC, once the phase-in, as the Companies propose it, is completed.

The ESCO parties complain that the methods for adjusting over-and-under collection of the WACOC have not been properly established. The ESCO parties, however, do not identify any specific shortcomings in the Companies' methodology and do not make any suggestions for improvements. Moreover, as the Companies explain, adjustments to the WACOC are made through resetting it once thresholds are exceeded; that mechanism is both adequate and superior to a separate reconciliation process.

Accordingly, the ESCO Parties' complaint on this point is rejected.

The ESCO parties ask that NYSEG be directed to file additional reports on the numbers of transportation-only and NYSEG supply customer accounts, and on the movement between the accounts before and after implementation of the single WACOC. NYSEG, however, already files extensive information on customer migration and supply customer counts in conformance with existing policies and requirements. No additional reporting requirements are needed.

Seeking more influence over the capacity portfolio decisions the Companies make, the ESCO Parties assert they should be afforded an opportunity to express their views on portfolio management decisions. The Companies, however, are already obligated to manage their capacity portfolios prudently, subject to our review in rate and other proceedings. Moreover, the decisions the Companies make concerning their portfolios are their responsibility, subject to regulatory review, and that responsibility cannot be shared. As a result, the additional procedures the ESCO parties propose are inappropriate, and affording them information on capacity portfolio arrangements at the GMOG meetings is sufficient to protect their interests.

The ESCO Parties ask that a more detailed schedule and process be adopted for the implementation of the auto-balancing system, while Stand Energy urges rejection of auto-balancing outright. Auto-balancing, however, is simply a software tool that automates the collection and reporting of balancing data. Its function is to provide more timely exchange of data between the Companies and ESCOs, assisting them in better balancing and managing their loads. Moreover, as the Companies note, auto-balancing is performed for daily metered customers, but not for non-daily metered customers subject to the single WACOC, and so has no impact on the implementation date for a single WACOC.

While the ESCO parties correctly point out that the Companies have not yet set a schedule for introducing auto-balancing, the detailed reporting and scheduling protocols the ESCO parties suggest would be a cumbersome and inefficient remedy. Instead, we advise the Companies that they are obligated to update the ESCO parties on auto-balancing system development at the GMOG meetings. The Companies shall also furnish ESCOs with reasonable advance notice of the date operation of auto-balancing will commence, and inform them of any obligations they must undertake regarding auto-balancing within a reasonable time before the obligation attaches.[5]

Contrary to Stand Energy's assertion, auto-balancing has no effect on the forecasting of a customer's usage. The more accurate balancing information the process yields cannot result in the accrual of new revenues that inure improperly to NYSEG's benefit or raise customer rates. As a result, Stand Energy's criticisms lack merit.

Finally, the ESCO Parties claim that significant rate impacts beyond those the Companies forecast will be incurred because of the single WACOC. As the Companies note, however, the impact forecasts the ESCO Parties present are for the prices they charge under their contracts with their customers. As discussed above, the ESCOs will have had sufficient time, given the proposed phase-in, to adjust their contracts to avoid impacts attending the advent of the single WACOC and the GSA consolidation. In any event, it would be improper to intrude upon the contracts ESCOs have entered into with their customers,

[5] Contrary to the ESCO Customers' suggestion, the recovery of auto-balancing implementation costs need not be reviewed here; that issue is instead best considered later in another, more appropriate proceeding.

in a competitive market free from rate regulation, as a result of the issues raised in this proceeding.

Another reason further delay to address those impacts would be inappropriate is that at least a portion of the impact is likely related to the elimination, necessarily implemented without undue delay, of cost subsidization of ESCO supply customers by NYSEG's supply customers. The ESCO Parties forecasts also do not appear to reflect the ameliorating effect on rate impacts of stable delivery charges, which are not affected by changes in supply charges adopted here. As a result, the rate impact analysis the ESCO Parties present lacks merit and does not justify any changes to the proposals propounded in the Companies' Report.

The Commission orders:

1. The recommendations made in the Report On Gas Supply Collaborative filed on August 3, 2012 in these proceedings by New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation are adopted to the extent discussed in the body of this Order and shall be implemented subject to the discussion in the body of this Order.

2. New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation are directed to file tariff revisions, by October 26, 2012 to take effect on November 1, 2012, effectuating those of the recommendations described in Ordering Clause No. 1 that are implemented through their tariffs.

3. The requirements of §66(12)(b) of the Public Service Law, as to newspaper publication of the tariff amendments described in Ordering Clause No. 2, are waived.

4. The deadlines provided for in this Order may be extended as the Secretary may require.

5. These proceedings are continued.

By the Commission,

Jaclyn A. Brilling
Digitally Signed by Secretary
New York Public Service Commission

(SIGNED) JACLYN A. BRILLING
Secretary