



Agenda Date: 12/18/02
Agenda Item: 2C

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STATE OF NEW JERSEY
Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj*

I/M/O THE PROVISION OF BASIC)
GAS SUPPLY SERVICE PURSUANT)
TO THE ELECTRIC DISCOUNT AND)
ENERGY COMPETITION ACT,)
N.J.S.A. 48:3-49 et. seq.)

ENERGY

ORDER APPROVING
BGSS PRICE STRUCTURE

DOCKET NO. GX01050304

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-58, the Board is required to determine, by January 1, 2002, whether to make available basic gas supply service, ("BGSS") on a competitive basis to any gas supplier, any gas public utility, or both.

Basic gas supply service is defined in EDECA as "gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the board." N.J.S.A. 48:3-51. Those who provide this service are sometimes referred to as "default providers" or "suppliers of last resort." In New Jersey, this service has been provided by regulated utilities for over 70 years.

The Board, by Order dated June 6, 2001, provided interested parties an opportunity to respond in writing to questions posed by the Board regarding the future provision of BGSS, and established a utility working group to discuss major issues. That working group met several times throughout 2001, including on August 1, August 22 and October 22, 2001.

By Order dated January 17, 2002, the Board decided that while there was no policy reason why BGSS could not be provided on a competitive basis, several major policy issues, including pricing structure and supply reliability, needed to be investigated further before the Board could determine the proper structure for BGSS on a long-term basis. The Board also directed its Staff to convene a Gas Policy Group, which includes Board Staff, the Division of the Ratepayer Advocate, the New Jersey gas utilities and other interested entities including suppliers with leadership from both its Division of Energy and its Office of the Chief Economist, to address the major issues and the long-term structure of BGSS. The Gas Policy Group initially met on February 20. On May 8, 2002,

Staff circulated a proposal for BGSS Design, and the Gas Policy Group subsequently met regarding that proposal.

On June 21, 2002, the New Jersey gas utilities ("GDCs"), namely New Jersey Natural Gas Company ("NJNG"), NUI Utilities Inc. d/b/a Elizabethtown Gas Company ("Elizabethtown"), Public Service Electric and Gas Company ("PSE&G"), and South Jersey Gas Company ("SJG") submitted a proposed BGSS pricing design. On August 1, 2002, the GDCs submitted a second proposal, along with submissions by each GDC providing company-specific information and proposed tariff sheets. On September 11, 2002, the Gas Policy Group met and conferred regarding the GDCs' submissions. Following additional informal discussions and meetings, Board Staff ("Staff"), on November 26, 2002, circulated a BGSS price structure proposal and requested Initial Comments by December 4, 2002 and reply Comments by December 9, 2002. The only Initial Comments received were from the Division of the Ratepayer Advocate ("RPA"). Reply Comments were received from PSE&G and Elizabethtown.

Subsequently, Staff, the RPA and the four GDCs discussed and resolved all outstanding issues. The resulting BGSS Price Structure proposal was submitted to the Board on December 13, 2002 as a joint settlement with no known opposition (BGSS Proposal). It is included as Attachment A to this Order.

The proposed price structure provides for Periodic BGSS pricing and Monthly BGSS pricing. Monthly BGSS pricing applies to commercial and industrial ("C&I") customers. All of PSE&G's C&I customers already are on a monthly pricing schedule.¹ Elizabethtown's large C&I customers would be subject to Monthly BGSS pricing according to existing tariff classifications as described in the BGSS Proposal. Smaller Elizabethtown C&I customers that are in the Small General Service ("SGS") and Multi Family Service ("MFS") rate classes would be subject to Periodic BGSS pricing. For NJNG and SJG, all C&I customers with annual usage of 250,000 therms or more would be on Monthly BGSS pricing. The Periodic BGSS price structure would apply to residential and small C & I customers not included in Monthly BGSS pricing.

Customers on Monthly BGSS would have their rates adjusted each month based on the New York Mercantile Exchange (NYMEX) price for each month. Periodic BGSS pricing, also based on the NYMEX price, would permit three price adjustments a year. The first one, effective October 1 of each year, after notice and hearing and subject to Board approval would be as a result of an annual filing to be submitted by June 1 similar to the current Levelized Gas Adjustment Clause process. Two additional limited self-implementing rate adjustments would be permitted each year upon notice to the Board and Ratepayer Advocate on November 1 and January 1 of the estimated change to take effect on December 1 and February 1 respectively. Notices for December or February increases shall include specific reference to the previous annual filing with justification and supporting documentation in the GDS's summary explaining the need for the periodic increase. These self-implementing rate adjustments will be provisional subject to true-up in connection with the annual filings. The self-implementing rate adjustments

¹ On April 17, 2002, the Board issued an Order "In the Matter of the Petition of Public Service Electric and Gas Company's proposal To Transfer its Rights and Obligations under its Gas Supply and Capacity Contracts and Operating Agreements to an Unregulated Affiliate and Other Relief", under BPU Docket No. GM00080564. In that April 17 Order, the Board approved monthly market pricing (BGSS-F) for all of PSE&G's commercial and industrial (C&I) customers. PSE&G has been monthly market pricing for C&I customers since 1995.

would permit the GDCs to provisionally adjust the BGSS rate upward by a maximum of 5% of the total residential customer bill. The GDCs would provide the Board and the RPA with estimated rates four weeks before any self-implementing rate adjustment increases. Interest payments on any over-recoveries shall continue to be credited to the benefit of ratepayers consistent with current Board practices. Consistent with Board practice there will be no interest payments on any under-recoveries. The GDCs would be permitted to decrease rates at any time, provided that the GDC's notify the Board and Ratepayer Advocate two weeks in advance with supporting documentation.

For the 2002/2003 winter period, those GDCs which have not already done so may make an annual BGSS filing, subject to notice, hearing and Board approval. Any Board approved BGSS rate change shall be subject to one self-implementing rate change, as described above, on March 1, 2003. Any such self-implementing change shall be subject to written notice to the Board and the RPA by February 1, 2003 of the estimated change to take effect on March 1, 2003.

The Board has reviewed the BGSS Proposal in Attachment A and the comments filed thereupon. The BGSS Proposal is consistent with the direction and philosophy that the Board is considering for electric customers that would implement hourly pricing for the State's largest electric customers under Docket No. EX01110754.

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.

As with the Board's BGS decision in Docket No. EX01110754 for electric customers (Order dated December 18, 2002), the pricing structure presented here is consistent with the concept that larger customers are more prepared to adjust to true market pricing while smaller users need to be introduced to market-based rates at a more gradual pace. In the instant BGSS Proposal, the Board is satisfied that the self-implementing rate adjustments for Periodic BGSS customers is based on a formula that is easily verified and reflects actual market costs. It has the potential to be more responsive to sudden market changes than the current LGAC process. The BGSS Proposal also permits automatic rate reductions and/or refunds which would return overpayments to customers more promptly than through the current regulatory process. The Board is satisfied that the requirement for a yearly true-up subject to normal regulatory review maintains appropriate regulatory oversight of the self-implementing rate adjustments and automatic rate reductions/refunds. Finally, for customers that are uncomfortable with periodic rate adjustments and prefer a level payment schedule, existing budget plans will remain available.

As explained above, the Monthly Pricing provision of the BGSS Proposal is consistent with the direction the Board has endorsed for larger electric customers. While the current BGSS Proposal moves more C&I customers to real-time pricing more quickly than the Board's recent electric decision, the natural gas industry has moved more quickly than the electric industry towards a competitive environment. The Board approved

competitive choice for all C&I natural gas customers in 1994 whereas electric competition was not initiated until 1999. Therefore, natural gas C&I customers have significantly more experience with competitive options and market-based pricing than similar electric customers. The Board also believes that the relatively few difficulties encountered in transitioning C&I gas customers to a competitive environment indicates that the BGSS Proposal for Monthly Pricing will be accepted and understood by customers. Finally, this provision of the BGSS Proposal is also consistent with the rate structure that the Board has previously approved for all PSE&G C&I natural gas customers which appears to have worked well.

For the foregoing reasons, the Board APPROVES the BGSS Proposal included in Attachment A, dated December 13, 2002, attached to and incorporated into this Order for a natural gas price structure. The Board DIRECTS that the annual filings due by June 1 of each year, as identified in paragraphs 3, 4 and 10 of Attachment A, and the periodic notices due by November 1 and January 1 of each year, as identified in paragraphs 5 and 6 of Attachment A, and the periodic notice due by February 1, 2003, as identified in paragraph 11 of Attachment A, should contain, but not be limited to:

- a) A reconciliation of actual versus estimated costs and revenues from the last Board approved rate change for commodity, storage and interstate transportation costs, including the costs and results of any supplies set by hedges;
- b) Projected rates supported by projected volumes, revenues, and commodity, transportation, storage and transaction costs, including the cost of supplies set by hedges;
- c) Deferred balances and the timeframe over which this is proposed to be collected or returned;
- d) A written explanation of the circumstances that caused the deferred balance in c above; and
- e) A written explanation of any significant activities or trends which may affect costs for the prospective period.

Any additional requirements imposed as a result of previous Board Orders shall remain in effect unless and until superceded by Board Order. The Board FURTHER DIRECTS the GDCs to immediately implement the provisions herein and to file tariffs consistent with this decision within 30 days of the date of this Order. The Board reserves the right to revisit and/or modify its decision in this matter at any time upon notice to the parties should circumstances so warrant.

DATED: 1/6/03

BOARD OF PUBLIC UTILITIES

BY:


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PRESIDENT

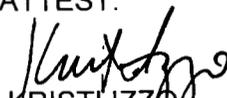

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ATTACHMENT A

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PROVISION)
OF BASIC GAS SUPPLY SERVICE) BGSS PRICING PROPOSAL
PURSUANT TO THE ELECTRIC DIS-)
COUNT AND ENERGY COMPETITION) DOCKET NO. GX01050304
ACT, N.J.S.A. 48:3-49, ET SEQ.)

The Electric Discount and Energy Competition Act (EDECA), N.J.S.A. 48:3-49 *et seq.* required that the Board determine by January 1, 2002, whether to make available Basic Gas Supply Service (BGSS) on a competitive basis to any gas supplier, any gas public utility or both, N.J.S.A. 48:3-58(s).

The Board, by Order dated June 6, 2001, created a process whereby interested parties were provided the opportunity to respond in writing to questions posed by the Board regarding the future provision of BGSS, and whereby a working group was established to discuss major issues. That working group met several times throughout 2001, including on August 1, August 22 and October 22, 2001.

At an Open Public Meeting on December 10, 2001, which was memorialized in an Order dated January 17, 2002, the Board decided that several major policy issues needed to be investigated further before the Board could determine the proper structure for BGSS on a long-term basis. The Board also directed Board Staff to convene a Gas Policy Group, with leadership from both the Division of Energy and the Office of the Economist to address the major issues and the long-term structure of BGSS. In the Matter of the Provision of Basic Gas Supply Service Pursuant to the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 *et seq.*, Docket No. GX01050304, dated

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January 17, 2002. The Gas Policy Group initially met on February 20, 2002 to discuss the issues set forth in the Board's January 17, 2002 Order. On May 8, 2002, Staff circulated a proposal for BGSS Design, and the Gas Policy Group, which includes Board Staff, the Division of the Ratepayer Advocate, the New Jersey Gas Utilities, and other interested entities, including suppliers, subsequently met regarding that proposal.

On June 21, 2002, the New Jersey Gas Utilities (GDCs), namely New Jersey Natural Gas Company (NJNG), NUI Utilities Inc. d/b/a Elizabethtown Gas Company (Elizabethtown), Public Service Electric and Gas Company (Public Service), and South Jersey Gas Company (SJG) submitted a consensus document proposing a BGSS Pricing Design.

On August 1, 2002, the GDCs submitted a second consensus document proposing a BGSS Pricing Design, along with submissions by each GDC providing company-specific information and proposed tariff sheets.

On September 11, 2002, the Gas Policy Group met and conferred regarding the Staff's and the Division of the Ratepayer Advocate's recommendations regarding BGSS Design Pricing procedures.

As a result of the above-referenced submissions and discussions, Board Staff, the Division of the Ratepayer Advocate, Elizabethtown Gas Company, New Jersey Natural Gas Company, Public Service Electric & Gas Company and South Jersey Gas Company ("parties") HEREBY AGREE AS FOLLOWS:

1. The GDCs' gas customers shall be priced on either a monthly basis ("Monthly BGSS") or on a periodic basis ("Periodic BGSS"), described below, as follows:

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a) All residential gas customers of all of the GDCs shall be priced under the Periodic BGSS described below.

b) All of Public Service's Commercial and Industrial (C&I) customers already are and will continue to be, priced on Monthly BGSS as approved by the Board in its April 17 2002 Order under BPU Docket No. GM00080564.

c) For NJNG and SJG, all C&I customers with annual usage of 250,000 therms or more will be priced on the Monthly BGSS described below and smaller C&I customers will be priced on the Periodic BGSS described below

d) Elizabethtown's customers served under Small General Service ("SGS") and Multi-Family Service ("MFS") will be priced on the Periodic BGSS described below and all other C&I customers subject to BGSS will be priced on the Monthly BGSS described below.

PERIODIC BGSS PRICING MECHANISM¹

2. As described in paragraphs 5 and 6, the Periodic BGSS Pricing adjustment shall apply only to changes in gas costs, as defined in paragraph 7.

3. Each of the GDCs shall make an annual gas clause filing (hereafter referred to as the annual BGSS filing)², comparable in format to those filed by the GDCs currently, which will include projected volumes, storage and New York Mercantile Exchange (NYMEX) pricing by no later than June 1 with a requested implementation date of

¹ As discussed above, this pricing is applicable to all residential customers and to those C&I customers of NJNG and SJG using less than 250,000 therms annually.

² Each of the GDCs has a currently approved form of adjustment clause for recovering gas costs which have individual names such as the Commodity Charge for Public Service; however, for the purposes of this Settlement, those clause mechanisms shall be referred to as the BGSS.

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October 1, and seeking a Board Order authorizing implementation of a new Periodic BGSS Rate by October 1 of that year.

4. Any annual BGSS filing shall have as its purpose the achieving of a zero or near zero deferral balance by the following September 30.

5. Each GDC shall have the discretion to file to increase its Periodic BGSS Rates approved in the Board Order referred to in Paragraph 3 to be effective December 1, of that calendar year on a self-implementing basis subject to a maximum rate increase of up to 5% of the average rate based on a typical 100 therm per month residential total bill. The per unit rate change determined in this manner for residential customers shall be applicable to the BGSS rates for all customers whose BGSS rates are determined pursuant to the Periodic BGSS Pricing Mechanism, resulting in the same per unit gas cost recovery for all periodic BGSS customers. Such rate increase shall be preconditioned upon written notice by the GDC to the Staff and to the Division of the Ratepayer Advocate given no later than November 1 of the intention to implement a self-implementing rate increase on December 1 and the approximate amount of that increase based on current market data.

6. Each GDC shall also have the discretion to file a rate increase of up to a second 5% to be effective February 1, of the next calendar year on a self-implementing basis. This second increase of up to 5% of the average rate will be based on a typical 100 therm per month residential total bill. The per unit change determined in this manner for residential customers shall be applicable to BGSS rates for all customers whose BGSS rates are determined pursuant to the Periodic BGSS Pricing Mechanism, resulting in the same per unit gas cost recovery for all periodic BGSS customers. Such rate increase shall

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be preconditioned upon written notice by the GDC to the Staff and to the Division of the Ratepayer Advocate given no later than January 1, of the intention to implement a self-implementing rate increase on February 1, and the approximate amount of that increase based upon current market data.

7. The formula for determining the above-referenced Periodic BGSS Rate and any 5% self-implementing increases shall be the sum of the following:

- (1) A commodity cost which will be comprised of the sum of the weighted average price, including any applicable transaction costs, based on the projected monthly volumes utilized, of the following categories of gas:
 - (a) Flowing gas, which will be equal to the arithmetic average of (i) the weighted-average, based on monthly sales, of the remaining NYMEX monthly prices for the BGSS Year as recorded on the close of trading for the forward contract month and (ii) the weighted-average of the estimated Inside FERC prices for the respective locations where each GDC purchases its gas for the remainder of the BGSS Year;
 - (b) Any supplies whose price was previously set by hedges or other financial instruments; and
 - (c) The supplies of gas withdrawn from storage.
- (2) The variable cost of transportation and fuel, in excess of that recorded in (1) (a).
- (3) A cost component that includes all fixed pipeline costs, fixed supplier costs, all storage costs and any other credits or other costs currently being recovered through sales services to residential and C&I customers. Fixed pipeline costs, fixed supplier costs and fixed storage costs shall be calculated on an equal per therm basis for the entire BGSS year. Deferred balances associated with these fixed costs shall be separately accounted for and recovered from customers.
- (4) Deferred balances will be recovered or returned over some future period(s) through the BGSS pricing mechanism and GDCs retain the discretion to return such over recovered balances to customers through a current bill credit.

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8. Any self-implementing³ Periodic BGSS pricing mechanism filing shall have as its purpose the achieving of a zero or near zero deferral balance by the following September 30.

9. 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.

10. The notice of filing and of public hearing in the annual BGSS proceedings, discussed in Paragraph 3, shall include not only notice of the specific rate change that is sought to be implemented on October 1, but a paragraph which indicates that such proposed rates may be subject to self-implementing rate increases on the next December 1, and February 1, subject to the aforesaid 5% maximum caps for each of the two self-implementing increases. The notice shall also include the impact of such potential increases on a 100 therm residential bill.

INITIAL PERIODIC PRICING MECHANISM

11. For the current 2002/2003 BGSS period, the time for implementing an annual BGSS effective on October 1, 2002 has passed; therefore, each of the GDCs shall have an opportunity to make a BGSS filing as soon as possible, requesting an implementation date for new rates of no sooner than December 1, 2002 (the "Implementation Date"), and seeking a Board Order authorizing the same. Any under recovery balances which are proposed to be recovered beginning on the Implementation Date shall be recovered over the remaining period ending no sooner than September 30, 2003, at each GDC's

³ A self-implementing rate increase for these purposes means the two above-described provisional, subject to refund increases which may be made effective at the discretion of the GDC without additional hearing procedures or Board Order. The reconciliation of the costs underlying that self-implementing rate increase shall take place within the annual BGSS filing, which is submitted by the GDC the following summer.

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discretion. In this initial Periodic Pricing Mechanism, each GDCs' annual BGSS rates as established through Board Order shall be subject to a self-implementing increase on March 1, 2003 increasing the rates approved in the Board Order discussed in this Paragraph 11 under the 5% maximum cap discussed in Paragraphs 5 and 6 and the formula discussed in Paragraph 7 on written notice to the Staff and the Division of Ratepayer Advocate by no later than February 1, 2003.

Beginning in June of 2003 the above-referenced Periodic BGSS process, which provides for an annual filing in the summer seeking a Board Order authorizing potential rate changes as described above on October 1, 2003, followed by two potential self-implementing rate changes on December 1, 2003 and February 1, 2004, shall be effective pursuant to the above-referenced terms hereof and shall be effective thereafter.

MONTHLY BGSS PRICING MECHANISM

12. Monthly BGSS Pricing Mechanism

(a) Each of the GDCs,⁴ as applicable, will file a self-implementing monthly pricing mechanism on the second day after the close of the trading of the NYMEX contract for the first of the prospective month. Price changes would be effective on the first of each month. The GDCs will make a good faith effort to post all price changes to their respective websites within two working days of filing with the Board, and in all cases will post all price changes to their respective websites within four working days of filing with the Board.

(b) Within each monthly filing, the GDC would provide the following information:

- (i) Documentation regarding the NYMEX close
- (ii) Supporting schedules that document the actual/projected costs and sales volumes used to derive the monthly gas cost factor
- (iii) Updated tariff sheets to reflect any change to the monthly price

⁴ On April 17, 2002, the Board issued an Order Approving Contracts (April 17 Order) in *In the Matter of the Petition of Public Service Electric and Gas Company's proposal To Transfer its Rights and Obligations under its Gas Supply and Capacity Contracts and Operating Agreements to an Unregulated Affiliate and Other Relief*, under BPU Docket No. GM00080564. In that April 17 Order, the Board approved monthly market pricing (BGSS-F) for all of Public Service's commercial and industrial (C&I) customers. Public Service has been monthly market pricing for C&I customers since 1995.

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(c) For the transition to the Monthly BGSS, NJNG, Elizabethtown, and SJG⁵ will each estimate its respective deferred balance, either positive or negative, as of the Monthly BGSS Implementation Date. Such balance will be collected over a period of up to twelve months based on the estimated firm sales for the period. At the end of this period, if there is a remaining deferred cost balance to be recovered from the C&I customers, the rate component used to recover such balance in the prior twelve month period shall be continued into future months until the deferred balance becomes positive as an overrecovery, which then will be transferred to the Periodic Pricing Mechanism. Gas costs and related recoveries from the Monthly BGSS will flow to the deferred balance in the Periodic BGSS Pricing Mechanism.⁶

(d) Each GDC will calculate its gas cost for the respective month by utilizing a pricing formula, which will be the sum of the following components:

- (i) A gas cost which will be equal to the arithmetic average of (i) the NYMEX closing price for the following month and (ii) the average of the estimated Inside FERC prices⁷ for the respective locations where each GDC purchases its gas for the next month. Further, the calculation will not include hedging;
- (ii) The variable cost of transportation and fuel; and
- (iii) A cost component that includes all fixed pipeline costs, fixed supplier costs, and storage costs shall be calculated on an equal per therm basis for the entire BGSS year (October 1 to September 30). This calculation will not include an over/underrecovery component in the price for monthly-priced customers beyond the recovery of the initial deferred balance (pursuant to paragraph 12 (c)).

13. The parties agree that this proposal provides for a new approach to the recovery of gas costs by utilities in New Jersey that should be subject to a further review

⁵ As previously indicated, Public Service currently has Board-approved monthly market pricing (BGSS-F) for all of its commercial and industrial customers pursuant to the Board's April 17, 2002 Order under Docket No. GM00080564.

⁶ As indicated in footnotes 4 and 5, the provisions of this paragraph on the proposed transition by NJNG, Elizabethtown, and SJG to the Monthly BGSS Pricing Mechanism do not reflect the separate procedures used by Public Service for Monthly Pricing of its C&I customers pursuant to the Board's approval in its April 17, 2002 Order Approving Contracts in In the Matter of the Petition of Public Service Electric and Gas Company's proposal to Transfer its Rights and obligations under its Gas Supply and Capacity Contracts and Operating Agreements to an Unregulated Affiliate and Other Relief, under BPU Docket No. GM00080564."

⁷ Use of the Inside FERC index for gas pricing is currently under investigation by both the Commodities futures Trading Commission and FERC. Continued reliance upon this index should be guarded, subject to the results of the pending investigation.

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by the Board. Accordingly, the parties agree that concurrent with the annual BGSS filing identified in paragraph 3 and due no later than June 1, 2004, each utility shall file a request with the Board to continue, modify or terminate the Settlement.⁸ The mechanism contained in this Settlement shall continue in effect while the proceeding related to such filing is pending or until there is a superceding Board Order.

14. Each of the GDCs shall make a company specific tariff compliance filing within 30 days after approval of this proposal by the Board.

15. The parties agree that this proposal contains mutually balancing and interdependent provisions and is intended to be accepted and approved in its entirety. In the event any particular aspect of this Settlement is not accepted and approved by the Board, this Settlement shall be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.

16. The Board's current policy regarding interest in the BGSS Commodity Charge (formerly LGAC) proceedings is to provide interest to customers on over-recoveries, but not to gas utilities on under-recoveries. This policy is not affected by this settlement. However, all of the signatories to the settlement reserve their respective rights to present their respective positions on this issue in future proceedings.

DATED: December 13, 2002

⁸ Individual utilities may file either jointly or individually.