BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Elizabeth Marconi, et al. : " "

Gasco Distribution Systems, Inc. : " 

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JOINT SETTLEMENT PETITION

_______________________________________

To the Honorable Commissioners of the Public Utility Commission:

Pursuant to Section 5.232 of the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) regulations, 52 Pa. Code § 5.232, Gasco Distribution Systems, Inc. (“Gasco” or “Company”), the Office of Consumer Advocate (“OCA”) and the Borough of Kane (collectively, “Settlement Parties”), hereby submit this Joint Settlement Petition in the above-captioned proceeding. The Settlement Parties seek Commission approval of the Joint Settlement Petition, and in support of the same aver the following:

A. BACKGROUND

1. The above-captioned proceeding was commenced by the filing of more than 200 formal complaints by Kane Division customers against Gasco.

2. The Complainants alleged, among other things, that Gasco's gas rates were too high, that the bills produced by the Company were unclear and that the Company's customer service and budget billing practices were unsatisfactory.

3. On April 4, 2002, the OCA filed a Notice of Intervention.
4. On Motion of Gasco and by Order of Administrative Law Judge Larry Gesoff (“ALJ Gesoff”) dated April 15, 2002, approximately 226 complaints docketed with the Commission were consolidated under the above-captioned docket number for purposes of disposition.

5. On April 22, 2002, the Borough of Kane filed a Formal Complaint in the consolidated proceeding.

6. ALJ Gesoff established a procedural schedule that contemplated public hearings, filing of testimony, technical evidentiary hearings and filing of briefs.

7. Initial Hearings were held on June 20, 2002, and the Commission received testimony from 21 of the Formal Complainants.

8. Following extensive formal and informal discovery and consistent with the established procedural schedule, written Direct Testimony was filed by the OCA on August 21, 2002 and by Gasco on September 5, 2002. The OCA filed Rebuttal Testimony on August 19, 2002.


10. In compliance with the Commission’s policy to encourage parties to negotiate settlements of contested proceedings, 52 Pa. Code §§ 5.231, 69.391, Gasco and the OCA engaged in extensive discussions to explore the possibility of settlement. These discussions resulted in this Joint Settlement Petition, which proposes a resolution of all outstanding issues in this proceeding, as set forth below.
B. SETTLEMENT TERMS

1. Gasco shall comply with the Commission's Orders of August 9, 2002 at Docket Nos. D-01GCR016 and D-01GCR017. The referenced Orders relate to the GCR Audit Reports on Gasco for the years 1999-2001 and released by the Commission on August 9, 2002.

2. Gasco and the OCA agree that the section titled “If You Have Questions” on the second page of OCA Attachment 1 to OCA St. 1R should be modified to read “A rate schedule, an explanation of how to verify the accuracy of the bill and an explanation of the various charges is available for inspection in the Kane Service Center and other bill-paying locations.” Attachment A is a sample bill reflecting that change to OCA Attachment 1 to OCA St. 1R. The OCA acknowledges that this change may cause Gasco some delay in printing the revised bill, and will not challenge any delay directly resulting from making this change.

3. Gasco will use its best efforts to implement the proposed bill format contained in Attachment A. Until a revised bill is issued to customers, Gasco will keep the OCA informed about the billing format and any modifications from Attachment A. In addition, if Gasco demonstrates good cause for not using a bar graph to show historic usage, the Company will use the following chart format or a substantially similar method of displaying customer usage history:

<table>
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<th>Aug 01</th>
<th>Sep 01</th>
<th>Oct 01</th>
<th>Nov 01</th>
<th>Dec 01</th>
<th>Jan 02</th>
<th>Feb 02</th>
<th>Mar 02</th>
<th>Apr 02</th>
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<td>20</td>
<td>17</td>
<td>12</td>
<td>6</td>
<td>3</td>
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</table>
4. Within ninety (90) days from the entry of a PUC Order approving this proposed Settlement, Gasco will complete the installation of the new billing system, including all hardware, software and programming necessary to issue bills in compliance with Terms 1 and 2 above. Gasco may seek an extension to the ninety (90)-day deadline for good cause shown, including but not limited to circumstances outside or beyond the Company's control. The OCA does not waive any right to oppose such request for extension.

5. After a revised bill is implemented, on an on-going basis, Gasco commits to keep the OCA informed about any modifications to the billing format.

6. Within ninety (90) days from the entry of a PUC Order approving this proposed Settlement, Gasco will review the accounts of customers currently enrolled in the budget billing plan and will adjust the budget billing amount, where needed.

7. As of the 2003 budget billing enrollment, Gasco will fully comply with Commission regulations for review and adjustment of budget billing accounts.

8. Within ninety (90) days from the entry of a PUC Order approving this proposed Settlement, Gasco will file complete and accurate tariffs with the Commission. The tariffs will comply fully with Chapter 53 of the Commission's regulations.

9. Within thirty (30) days from the Commission's approval of the tariffs referenced in paragraph 7 above, Gasco will place a complete and accurate copy of its Commission-approved tariffs in the service territories of its Claysville and Kane
Divisions, including the Kane Service Center, Kane Borough Office and Mount Jewett Borough Office.

10. Within thirty (30) days from the Commission's approval of the tariffs referenced in paragraph 7 above, Gasco will post a complete and accurate copy of its Commission-approved tariffs on its website.

11. Henceforth, Gasco will provide to the OCA one (1) copy of all published newspaper notices or direct notices sent to customers of any rate changes.

12. Henceforth, Gasco will provide to the OCA one (1) copy of tariff changes, rate changes and affiliated interest agreements filed with the Commission.

13. Within ninety (90) days of the entry of a Commission Order approving this proposed Settlement, Gasco will file all contracts and/or agreements with its affiliate Gasco, Inc. and The Titan Energy Group, Inc. as required by Chapter 21 of the Public Utility Code.

14. Gasco will notify the OCA in writing when the arrearage of amounts payable to Gasco’s affiliate gas purchasing agent, Gasco, Inc., is equal to or less than $500,000.

15. Each month, for the first six (6) months following entry of a Commission Order approving this proposed Settlement, and each quarter for one (1) year thereafter, Gasco will provide a status report to the Commission, the Bureau of Fixed Utility Services and the OCA including:
a. The status of the installation of the billing system until completed.

b. One (1) copy of three (3) actual customer bills: one (1) residential bill, one (1) residential budget-billing bill and one (1) commercial bill (with customer names and account numbers deleted) until one (1) year following the issuance of the revised bills.

c. A report on the Company’s monitoring of budget billing accounts, including information regarding how many accounts have been reviewed and how many budget billing amounts have been modified during the last reporting period through the 2003 budget billing period.

d. The status of the preparation of complete and accurate tariffs until filed with the Commission.

e. One (1) copy of all records of customer service and billing complaints by Kane Division customers (not including inquiries resolved over the phone) called-in to the Zanesville call center during the previous reporting period, and the resolution of each.

f. The status of Commission review of any affiliated interest agreement filings for Gasco Distribution Systems, Inc. until a final Order approving the filings is issued.

16. Each quarter, for the first eighteen (18) months following entry of a Commission Order approving this proposed Settlement, Gasco will provide the OCA with one (1) copy of all records of complaints called-in to the Kane Service Center during the previous reporting period, and the resolution of each.
C. **RESOLUTION OF PROCEEDING**

1. This Joint Settlement Petition resolves, with prejudice, all of the issues raised by the Settlement Parties in this proceeding and/or specifically addressed herein and precludes the Settlement Parties from asserting contrary positions with respect to any such issues during subsequent litigation; provided, however, that this Joint Settlement Petition is entered into without admission against or prejudice to any factual or legal positions which any of the parties may assert: (a) in the event that the Commission does not issue a Final Order approving the Joint Settlement Petition without modification; or (b) in other proceedings before the Commission or other fora as long as such positions are not in derogation of this Joint Settlement Petition.

2. The Settlement Parties recognize that this settlement does not bind Formal Complainants that do not choose to join in the Joint Settlement Petition. A copy of this Joint Petition and the attached Appendices hereto, including any Statements in Support, is simultaneously being served upon all Formal Complainants in this proceeding with a letter explaining their rights to support, oppose and comment on this proposed Settlement.

3. This Joint Settlement Petition shall become effective immediately upon the entry of a Final Order by the Commission ratifying and accepting this Joint Settlement Petition in its entirety without modification. If the Commission should fail to grant such approval or should modify the terms and conditions herein, this proposed Settlement may be withdrawn upon written notice to the Commission and all parties within five (5) business days by any of the Settlement Parties and, in such event, shall be of no force and effect. In the event that the Commission does not approve the Joint
Petition or any Settlement Party elects to withdraw as provided above and the proceeding continues in litigation, the Settlement Parties reserve their respective rights to submit Briefs and Exceptions.

4. If the Presiding Administrative Law Judge, in his Initial Decision, recommends that the Commission adopt the Settlement as herein proposed, the Settlement Parties agree to waive the filing of Exceptions. However, the Settlement Parties do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Joint Petition, or any additional matters, proposed by the Administrative Law Judge in his Initial Decision. The Joint Petitioners reserve the right to file Reply Exceptions to any Exceptions which may be filed.

5. The Settlement Parties agree that this Joint Settlement Petition shall not constitute or be cited as controlling precedent in this or any other jurisdiction. This Joint Settlement Petition is determinative and conclusive of all the issues addressed herein and, upon final Commission approval, constitutes a final adjudication as to the Settlement Parties of such issues.

6. Approval of this Joint Settlement Petition is in the public interest. In recognition of the Commission’s policy in favor of seeking negotiated settlements to contested proceedings, the Settlement Parties have reached an amicable resolution to this dispute as embodied in this Joint Settlement Petition. Approval of this Joint Petition is in the public interest because it will permit the Commission and the Settlement Parties to avoid incurring the time, expense, and uncertainty of further litigation. See, 52 Pa. Code § 69.391.
WHEREFORE, Gasco Distribution Systems, Inc. and the Office of Consumer Advocate respectfully request that Administrative Law Judge Gesoff issue an Initial Decision and the Commission issue an Order approving without modification this Joint Settlement Petition and take any such other action that is deemed necessary and proper to effectuate the intent of the Settlement Parties.

Respectfully submitted,

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Dated: