

ARTICLE 14

INCENTIVE PROGRAMS.

R6-95 INCENTIVE PROGRAMS FOR NATURAL GAS UTILITIES

(a) Purpose. — The purpose of this rule is to establish guidelines for the application of G.S. 62-140(c) to natural gas utilities that are consistent with the directives of that statute and consistent with the public policy of this State set forth in G.S. 62-2.

(b) Definitions. — As used in this rule, the following definitions shall apply:

- (1) “Consideration” means anything of economic value paid, given or offered to any person by a natural gas utility (regardless of the source of the “consideration”) including, but not limited to: payments to manufacturers, builders, equipment dealers, contractors including HVAC contractors, electricians, plumbers, engineers, architects, and/or homeowners or owners of multiple housing units or commercial establishments; cash rebates or discounts on equipment/appliance sales, leases, or service installation; equipment/appliances sold below fair market value or below their cost to the natural gas utility; low interest loans, defined as loans at an interest rate lower than that available to the person to whom the proceeds of the loan are made available; studies on energy usage; model homes; and payment of trade show or advertising costs. Excepted from the definition of “consideration” are favors and promotional activities that are de minimis and nominal in value and that are not directed at influencing fuel choice decisions for specific applications or locations.
- (2) “Program” means any natural gas utility action or planned action that involves offering Consideration.
- (3) “Person” means the same as defined in G.S. 62-3(21).
- (4) “Natural gas utility” means, for purposes of this rule, a person, whether organized under the laws of this State or under the laws of any other state or country, that owns or operates in the State equipment or facilities for producing, transporting, distributing, or furnishing piped gas to or for the public for consumption.

(c) Filing for Approval.

- (1) Application of Rule. — Prior to a natural gas utility implementing any Program, the purpose or effect of which is to directly or indirectly alter or influence the decision to use the natural gas utility’s service for a particular end-use or to directly or indirectly encourage the installation of equipment that uses the natural gas utility’s service, the natural gas utility shall obtain Commission approval. Whether a Program is offered at the expense of the natural gas utility’s shareholders, ratepayers or a third party shall not affect the filing requirements under this rule. A natural gas utility shall file for approval all Programs to offer Consideration which are administered, promoted or funded by the natural gas utility’s subsidiaries, affiliates and/or unregulated divisions or businesses where the natural gas utility has control over the entity offering or is involved in the Program and an intent or effect of the Program is to adopt, secure, or increase the use of the natural gas utility’s utility services.
- (2) Filing Requirements. — Each application for the approval of a Program shall include the following:
 - (i) Cover Page. — The natural gas utility shall attach to the front of an application a cover sheet generally describing the Program, the Consideration to be offered, anticipated total cost of the Program, the source and amount of funding proposed to be used, proposed classes of persons to whom it will be offered, and the duration of the Program.
 - (ii) Description. — A detailed description of the Program, its duration, purpose, estimated number of participants, and impact on the natural gas utility’s general body of customers and the natural gas utility.
 - (iii) Cost. — The estimated total and per unit cost for the Program to the natural gas utility, reported by type of expenditure (e.g., direct payment, rebate, advertising) and the planned accounting treatment for those costs. If the natural gas utility proposes to place any costs to be incurred in a deferred account for possible future recovery from its customers, it shall disclose the same and provide an estimate of each cost to be deferred. The natural gas utility shall describe, in detail, all other sources of monies to be used, including the name of the source, the amount provided, and the reasons the third party is providing the money.
 - (iv) Effect on Customer Use. — A statement of the effect, if any, that the Program is expected to have on customer use of the natural gas utility’s service.

- (v) Conditions of Program. — The type and amount of Consideration and how and to whom it will be offered or paid, including schedules listing the Consideration to be offered, a list of those who will use the natural gas utility's service, and other information on the availability and limitations (who can and cannot participate) of the Consideration. The natural gas utility shall describe any service limitations or conditions it imposes on customers who do not participate in the Program.
- (vi) Economic Justification. — Economic justification for the Program, including the results of appropriate cost-effectiveness tests.
- (vii) Communications. — Detailed cost information on the amount the natural gas utility anticipates will be spent on communication materials related to the Program. Such cost shall be included in the Commission's consideration of the total cost of the Program and whether the total cost of the Program is reasonable in light of the benefits. To the extent available, the natural gas utility shall include examples of all communication materials to be used in conjunction with the Program.
- (viii) Commission Guidelines Regarding Incentive Programs. — The natural gas utility shall provide the information necessary to comply with the Commission's Revised Guidelines for Resolution of Issues Regarding Incentive Programs issued by Commission Order on March 27, 1996, in Docket No. M-100, Sub 124, set out as an Appendix to Chapter 8 of these rules.
- (ix) Other. — Any other information the natural gas utility believes relevant to the application, including information on competition faced by the natural gas utility.

(d) Procedure.

- (1) Service and Response. — The natural gas utility filing for approval of a Program shall serve a copy of its filing on the electric utilities and electric membership corporations operating within the filing natural gas utility's certificated territory, the Public Staff, the Attorney General and any other party that has notified the natural gas utility in writing that it wishes to be served with copies of all such filings that involve the provision of Consideration. Those served, and others learning of the application, shall have thirty (30) days from the date of filing in which to seek intervention pursuant to Rule R1-19 or file a protest pursuant to Rule R1-6. The filing natural gas utility shall have the opportunity to respond to such petitions or protests within ten (10) days of their filing. If any party granted intervention requests a hearing or otherwise raises a material issue of fact, the Commission may, in its discretion, set the matter for hearing.
- (2) Notice and Schedule. — If the application is set for hearing, the Commission shall require such notice as it deems appropriate and shall establish a procedural schedule for prefiled testimony and rebuttal testimony after a discovery period of at least 45 days. Where possible, the hearing shall be held within ninety (90) days from the application filing date.

(e) Scope of Review. — In considering whether to approve in whole or in part a Program or changes to an existing Program, the Commission may consider any other information it determines to be relevant, including, but not limited to, the following issues:

- (1) Whether the Program unreasonably discriminates among persons receiving or applying for the same kind and degree of service;
- (2) Evidence of consideration or compensation paid by any competitor, regulated or unregulated, of the natural gas utility to secure the installation or adoption of the use of such competitor's services;
- (3) Whether the Program promotes unfair or destructive competition or is inconsistent with the public policy of this State as set forth in G.S. 62-2; and
- (4) Whether the Program encourages energy efficiency and its impact on the peak loads and load factors of the filing natural gas utility.

(NCUC Docket No. E-100, Sub 113, 2/29/08.)