

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PROVIDENCE GAS COMPANY :
 DETARIFFING COMFORT PLANS : DOCKET NO. 3100

REPORT AND ORDER

This matter comes before the Public Utilities Commission (“Commission”) pursuant to R.I.G.L. § 39-1-3 and § 39-3-11. On March 14, 2000, Providence Gas Company (“ProvGas”) filed with the Commission a proposal to modify ProvGas’s General Rules and Regulations contained in Tariff RIPUC PGC No. 100, Section 1, Schedule B, Sheet 2 (“tariff”). The modification would remove from ProvGas’s tariff, or “detariff,” appliance repair service provided by ProvGas to its customers through service agreements (“ComfortPlans”)¹.

In its filing, ProvGas stated that offering ComfortPlans as a non-tariffed service would afford ProvGas the pricing flexibility that other appliance repair service providers enjoy, and enable ProvGas to provide quality repair service to its customers at a competitive price. ProvGas emphasized that the pricing flexibility gained through a non-tariffed service will enable ProvGas to design and implement its ComfortPlans so as to better meet customer needs, while maintaining focus on ProvGas’ primary responsibility of ensuring the safe and reliable delivery of natural gas to customers. ProvGas proposed to continue offering ComfortPlans for a term of one year at the following annual per unit

¹ Jt. Exh. 1.

prices: (1) Plan A (steam boilers) \$65.95; (2) Plan B (warm air furnaces) \$65.95; (3) Plan C (circulating hot water systems – residential only) \$79.95; and (4) Plan W (water heaters up to 50 gal.) \$21.95². Noting that these proposed prices represent the first price increase in over five years for the ComfortPlans, ProvGas reserved the right to adjust these prices after the end of the contract term based on market conditions, consistent with other appliance repair service providers.³ Lastly, ProvGas proposed to accept new enrollees to the ComfortPlans as soon as the Commission approved the detariffing.⁴

On March 22, 2000, the Division of Public Utilities & Carriers (“Division”) filed a memorandum in response to ProvGas’ filing to detariff the ComfortPlans, raising a number of concerns regarding the detariffing proposal⁵. The Division pointed out that as a tarified service, the revenues and costs associated with ComfortPlans are included in ProvGas’ cost of service. However, without information on the cost incurred by ProvGas in providing ComfortPlans, the Division could not determine the effect on the cost of service of the detariffing. Another concern was that upon detariffing, utility personnel will be providing ComfortPlan service, requiring the allocation of program costs between utility and non-utility operations. The Division also recommended that

² ProvGas’s existing ComfortPlan programs are annually priced as follows: Plan A (steam boilers and warm-air furnaces) \$45; Plan C (circulating hot water boilers) \$55; and Plan W (domestic hot water heaters) \$15. Jt. Exh. 1.

³ Id.

⁴ In connection with its earlier decision to phase-out of the appliance repair service, ProvGas had stopped accepting new enrollees in its ComfortPlans, but continued to renew existing Plans. Id.

detariffing be contingent upon an historic level of net contribution remaining in the cost of service until the next cost of service proceeding, and that, to the extent that the existing ComfortPlans were providing a net contribution to the cost of service, ratepayers should be held harmless from the cost of service effects of the detariffing.. Lastly, the Division cautioned that since detariffing is synonymous with deregulating, ProvGas would be free to eliminate, amend or re-price the ComfortPlans at its discretion. Consequently, the Division recommended that detariffing be contingent upon ProvGas' commitment to continuing the ComfortPlans for a minimum of three years.

In response to the Division's concerns, Susann G. Mark, Vice President, General Counsel and Secretary of ProvGas, filed a letter on April 10, 2000⁶, stating ProvGas' commitment that (i) the impact of detariffing the ComfortPlans will lower utility rates because the costs associated with providing ComfortPlan service exceed revenues, and (ii) detariffed ComfortPlan service would be continued by ProvGas for at least three years.

On April 10, 2000, the Division submitted a memorandum indicating that ProvGas' April 10 letter had satisfactorily responded to the issues raised by the Division⁷. The Division noted that according to a cost study provided by ProvGas to the Division on April 7, 2000, the

⁵ Jt. Exh. 2.

⁶ Jt. Exh. 3.

⁷ Jt. Exh. 4.

ComfortPlans generate \$1,038,932 in revenues and \$1,110,524 in expenses, for a net loss of \$71,529. The effect of detariffing the ComfortPlans on the cost of service will be reviewed by the Division in ProvGas' next rate case.

Following public notice, a hearing was conducted on April 11, 2000 at the offices of the Commission, 100 Orange Street, Providence, Rhode Island. The following appearances were entered:

FOR THE COMPANY:	Craig Eaton, Esq.
FOR THE DIVISION:	Leo Wold, Esq. Special Assistant Attorney General
FOR THE COMMISSION:	Steven Frias, Esq. Senior Legal Counsel

At the hearing, Mr. Timothy Lyons, who is responsible for marketing and regulatory affairs at ProvGas, testified on behalf of the Company. Mr. Lyons explained that ProvGas ceased enrolling new customers into the ComfortPlans in August 1999, and intended to discontinue providing appliance repair in the future.⁸ He testified that the present ComfortPlans were not profitable and that customers could obtain appliance repair service from other business entities providing such service in a competitive market.⁹ Subsequently, ProvGas received indications that some of its customers wanted ProvGas to continue to provide appliance repair service.¹⁰ As a result, ProvGas submitted a

⁸ T. 5.

⁹ T. 5-6.

¹⁰ T. 9.

proposal to continue providing appliance repair service on a detariffed basis. Mr. Lyons noted that ProvGas' detariffing approach and its pricing for appliance repair service is comparable to what is currently being offered by Valley Gas.¹¹

Under questioning by the Commission, Mr. Eaton, counsel for ProvGas, represented that detariffing of the ComfortPlan would not abrogate Commission oversight of ProvGas and its offerings, and that the Commission could always open an investigation.¹² Mr. Lyons also acknowledged that ProvGas intends to offer the ComfortPlans indefinitely in the future if they generate profit and do not "disrupt the utility service".¹³ Mr. Lyons represented that ProvGas desired to detariff its ComfortPlans in order to make the service profitable and thus continue it for the long-term, and not merely as means for terminating the service at some point in the future.¹⁴

During the hearing, Commissioner Racine emphasized her concern that pursuant to R.I.G.L. § 39-1-1, notwithstanding the detariffing, ProvGas' appliance repair service would continue to be subject to Commission supervision and regulation in order to protect and promote the health and safety of the ratepayers.¹⁵ Mr. Eaton, counsel for

¹¹ T. 22-23.

¹² T. 16.

¹³ T. 17-18.

¹⁴ T. 18.

¹⁵ T. 31, 34.

ProvGas, concurred that the statute grants the Commission broad oversight over ProvGas and its activities.¹⁶

COMMISSION FINDINGS

The Commission will allow a utility to detariff a service if there is a competitive market for the service, and the quality of service for ratepayers will not be undermined. The Commission is particularly concerned regarding the detariffing of ProvGas' appliance repair service because of the obvious safety issues involved. Unlike water or telecommunications, natural gas is an inherently dangerous product which, if mishandled, can cause serious injury.¹⁷ Due to the clear public health and safety issues presented in this docket, the Commission explicitly rules that the approval of ProvGas' detariffing of its appliance repair service in no way waives or limits the Commission's authority to supervise or regulate this service. The Commission's authority, pursuant to R.I.G.L. § 39-1-1 and § 39-1-38, includes broad powers to oversee and regulate utilities, including detariffed services where they clearly affect public health and safety.

The Commission understands that ProvGas' appliance repair service, as presently priced, is not recovering its costs. Because appliance repair service is a vital service for some customers, the Commission will give ProvGas the pricing flexibility it needs to cover its costs on this service by approving its detariffing; provided, however, that

¹⁶ T. 46-47.

the quality and safety of its appliance repair service is maintained. Finally, the Commission expects ProvGas to work cooperatively with the Commission to continue providing this vital service to its customers for the indefinite future.

At an open meeting conducted on April 13, 2000, the testimony and evidence was reviewed. The Commission found the detariffing of ProvGas' ComfortPlans to be reasonable and in the interest of the ratepayers.

Accordingly, it is

(16634) ORDERED:

1. The March 14, 2000 detariffing filing of Providence Gas Company as amended by the April 10, 2000 documentation, is hereby approved.
2. Providence Gas Company is ordered to immediately accept new enrollees to its ComfortPlans.
3. Providence Gas Company is required to maintain its ComfortPlans for a minimum of three years.
4. Providence Gas Company is ordered to annually report to the Public Utilities Commission as to the status of its ComfortPlans, including: the prices of the plans, the number of customers participating in the plans, and the profitability of the plans.

¹⁷ T. 25.

5. Providence Gas Company shall not discontinue its ComfortPlan service without the express approval of the Public Utilities Commission.

EFFECTIVE AT PROVIDENCE, RHODE ISLAND, ON APRIL 13, 2000, PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED JUNE 13, 2001.

PUBLIC UTILITIES COMMISSION

Kate F. Racine, Commission

Brenda K. Gaynor, Commissioner