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September 28, 2007

Hon. Jaclyn A. Brillling  
Secretary  
Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223-1350

Re: Case 07-G-0299 – Capacity Planning and Reliability  
Compliance Filing

Dear Secretary Brillling:

National Fuel Gas Distribution Corporation (“Distribution” or the “Company”) submits the following proposed amendments to its tariff, P.S.C. No. 8 – GAS:

Leaf No. 260	Revision 6
Leaf No. 261	Revision 5
Leaf No. 265	Revision 7
Leaf No. 265.1	Revision 0
Leaf No. 265.2	Revision 0
Leaf No. 266	Revision 8

The proposed amendments are issued as of today for an effective date of November 1, 2007.

#### Background

On August 30, 2007, the Public Service Commission (“Commission”) issued an Order on Capacity Release Programs (“Order”) in the above-referenced proceeding. The Order directs local gas distribution companies (“LDC”), including Distribution, to file tariff amendments implementing mandatory capacity assignment to retail marketers “to insure the continued reliability of the natural gas system in New York . . . .” Order at 1. The Order further directs LDCs to grandfather “current levels of marketer-owned capacity,” as more fully described below. Id.

#### Description of Proposed Amendments

This is a compliance filing. See Order at 14-15, ordering paragraph no. 1. The tariff amendments propose changes consistent with, and designed to implement, the Order. Generally, the tariff changes, if approved, would modify Distribution’s services as follows:

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- The Company's aggregation service tariff (Service Classification no. 19 ("SC 19")) currently enables marketers serving small-volume customers to either supply their own upstream capacity ("elective upstream transmission capacity") or voluntarily take release of upstream capacity held by Distribution, to the extent of its availability and pursuant to FERC capacity release regulations. The instant tariff revisions would eliminate the "elective upstream transmission capacity" provision and replace it with a new "Mandatory Upstream Transmission Capacity ("MUTC") requirement.
- Marketer-supplied capacity as of September 1, 2007 would be grandfathered under a new category entitled Grandfathered Upstream Transmission Capacity ("GUTC").
  - Marketer-supplied replacement Intermediate Capacity (storage capacity) would also be grandfathered as of September 1, 2007.
- Local production supplies allowed as a replacement for pipeline capacity would continue to be authorized and would not be counted against the marketer's allowance for grandfathered upstream or intermediate pipeline capacity.

#### Analysis of Proposed Amendments

##### 1. Mandatory Capacity Release

As outlined above, the proposed amendments modify the "Upstream Capacity Requirements" section of SC 19 by adding a new section detailing the MUTC requirement. Leaf no. 265. Applicable to small-volume aggregation customers, this section establishes a requirement that marketers take release of Distribution's upstream transmission capacity to meet the marketers' aggregation load requirements as defined in the tariff. Other, conforming changes are also proposed to address capacity levels, term, receipt point requirements, storage management and cancellation. The proposed amendments also state explicitly that "the pipelines and delivery point quantities available for MUTC assignment will be posted on the Company's web site."

##### 2. Grandfathered Capacity

The Order directs LDCs to "grandfather current levels of marketer-owned capacity . . . ." Order at 14. The Order further defines "current levels" to mean "existing capacity held by marketers," Order at 8, "any marketer currently using its own capacity to meet core customer requirements (sic) should be allowed to do so indefinitely at current volumetric levels." *Id.* (emphasis added). Using the issue date of the Order as a guide, Distribution proposes to fix marketers' grandfathered capacity at levels current as of September 1, 2007. A new section of SC 19 establishes the GUTC threshold level.

A marketer's GUTC level will not increase, but it can decrease if a marketer so elects by means of (a) marketer acquiescent to customer attrition; or (b) an explicit marketer election. Order at 5, 8-9. With respect to customer (or load) attrition, the instant tariff revisions provide that the marketer's GUTC would be reviewed annually on April 1 and reduced if the marketer's load requirements (as defined in the tariff) are lower than the marketer's existing GUTC.

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Distribution's tariff currently provides for mandatory release of intermediate pipeline capacity, which includes storage capacity and related transmission capacity. The tariff also provides that the mandatory intermediate capacity requirement can be waived if a marketer brings its own suitable replacement capacity. Leaf no. 265. The level of marketer-supplied Intermediate Capacity as of September 1 will be fixed pursuant to a new section for Grandfathered Intermediate Transmission Capacity ("GITC"). Like GUTC, GITC levels would remain fixed unless decreased as described above. Further, the proposed tariff revisions also provide that a marketer may not transfer its GUTC or GITC to another marketer unless it accompanies the sale of its entire book of customers.

3. Local Production

The Order provides a special preference for local gas producers by directing LDCs to continue to accept local production as a replacement for LDC-provided capacity. Order at 9. Accordingly, the Company's proposed tariff revisions provide that the quantity of local gas production available to meet the marketer's pipeline capacity requirement (upstream and intermediate) does not count against the marketer's GUTC or GITC allowance.

State Administrative Procedure Act

Insofar as this is a compliance filing, the Company assumes that an additional Notice of Proposed Rulemaking is not required. See, Order at 1-2.

Newspaper Publication

Notice of the instant tariff revisions will be published in newspapers of general circulation in accordance with Public Service Law §66(12) prior to November 1, 2007.

Conclusion

For all of the foregoing reasons, Distribution respectfully requests that the above tariff amendments be approved for an effective date of November 1, 2007 in compliance with the Order.

Respectfully submitted,

Michael W. Reville