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national fuel

December 22, 2011

Hon. Jaclyn A. Brilling
Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: National Fuel Gas Distribution Corporation – Proposed Tariff Amendment
P.S.C. No. 8 – GAS

Dear Secretary Brilling:

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

Leaf No. 152	Revision 12
Leaf No. 153.1	Revision 3

The Company requests that the proposed revisions be approved for an effective date of February 6, 2012. Toward that end, this letter also includes a request for emergency procedure.

Description of Proposed Amendment

On December 21, 2011, the Company filed a letter with the Secretary describing a plan to increase customer enrollment in Distribution's Expanded Low Income Assistance Program ("ELIRA")[1] beginning with bills issued in January, 2012. The ELIRA is a straight discount service available for customers "who received an emergency payment under the Federal Home Energy Assistance Program ["HEAP"]. . . ." As explained in the December 21 letter (attached), the Company is increasing the ELIRA enrollments for its sales customers because the recent reduction in gas costs has resulted in an increase in the balance of funds available for the ELIRA and the Company's Low Income Customer Affordability Assistance Program ("LICAAP"), which operates in parallel with, and was designed to eventually replace, ELIRA. The December 21 letter notes that the ELIRA is a bundled sales service, with no provision for unbundled delivery, or transportation service. Consequently, customers currently served by Energy Service Companies ("ESCO") would not qualify for the ELIRA, even if they received "an emergency payment under [HEAP]," unless they elected to cancel their ESCO contract and return to utility sales service.

The purpose of the above-listed tariff amendment is to revise Service Classification ("SC") No. 2, ELIRA, to authorize application of the ELIRA discount to bills issued by Distribution for customers served by ESCOs. More specifically, the proposed revisions "unbundle" the LIRA service by authorizing transportation of ESCO-supplied natural gas. This change would enable customers served by ESCOs to

[1] The ELIRA is identified in Distribution's tariff as the "Low Income Residential Assistance Program," or "LIRA". The program was "expanded," extended and enhanced in proceedings subsequent to its initial approval in Case 00-G-1858, and has since then been identified by the Commission as ELIRA.

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qualify for the resulting LIRA transportation service, and therefore receive the same LIRA discount currently provided for eligible sales customers.

The proposed amendment further conforms SC 2 to the Company's other, unbundled sales services by requiring use of the Company's consolidated billing service, and by inserting a provision authorizing the Company to, under special circumstances, charge returning sales customer a published, incremental cost of gas. See e.g., SC 1 (Residential); Leaf 150.1 (Eff. 12/28/2007). No further changes are proposed herein.

Effect of Proposed Amendment

The proposed amendment, if approved, would (a) improve comparability between utility and ESCO delivery charges; and (b) provide bill relief to low-income customers served by ESCOs. For customers served by ESCOs who charge supply rates higher than Distribution's supply rates,[2] a "portable" ELIRA discount has heightened value because ESCO customers may be unable to "switch" to utility-provided ELIRA service due to contractual obligations enforced by marketers.

The Company is not proposing to increase its rates or charges to fund the increase in ELIRA enrollments effected by this amendment, if approved, because as explained above, funds are currently available due to lower gas costs. Therefore the Company will repopulate its list of ELIRA customers periodically, no less than annually, based on customer eligibility and available funds.

Notification

ESCO customers who are eligible for the ELIRA discount will be notified by a bill message that will accompany the rate discount at the time that it is automatically applied. The customers will not be required to contact the Company or complete an application to receive the discount. To prevent customer and ESCO confusion, however, the Company may provide additional notification as follows:

- Notification to ESCOs via e-mail, web posting or such other means as is both economical and effective; and
- Notification to Distribution's community-based organization partners who will, in turn, post notice of the bill discount or otherwise notify eligible customers.

Distribution believes that given the discrete population affected by the instant proposal, the above notifications are sufficient and obviate the need for newspaper publication. Accordingly, the Company requests that the requirement for newspaper publication be waived because it is an unnecessary expense and not in the public interest.

Request for Emergency Procedure

Pursuant to sections 202(6) and 203 of the State Administrative Procedure Act ("SAPA"), the Company requests emergency action on the proposed tariff amendments. Emergency adoption is necessary and in the public interest because the benefits afforded sales customers under ELIRA will be denied ESCO customers, even though they qualify for all other purposes, until approval is granted and effective. The question of whether the ELIRA is in the public interest was asked and answered, and noticed to the public, when the ELIRA was established and renewed in successive orders issued by the Commission. See, Case 00-M-0058, *Order Establishing Rate and Restructuring Plans* (issued September 18, 2011); Case 04-G-1047, *Order Approving Phase II Low Income Residential Assistance*

[2] The Company acknowledges ESCO statements that ESCO customers paying more than the utility rate may be receiving other, value-added services from the ESCO that are not available from Distribution or other regulated utilities.

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Program (issued April 26, 2006)[3]; Case 07-G-0141, *Order Establishing Rates for Gas Service* (issued December 21, 2007). Because the purpose of the instant tariff amendment is merely to render the ELIRA discount comparable in delivery charges billed to utility and ESCO customers alike, the proposed change reflects and implements the Commission's longstanding policy for retail competition. Therefore the delay occasioned by publication under SAPA would not serve the public interest and, indeed, could harm ESCO customers. Accordingly, compliance with SAPA sec. 202(1) would be contrary to the public interest.

Conclusion

For all of the foregoing reasons, Distribution respectfully requests that the Commission approve the above-listed tariff revisions for an effective date of February 6, 2012 or such other date as the Commission deems appropriate.

Respectfully submitted,

Michael W. Reville

Attachment

[3] See New York State Register, Vol. XXVII, Issue 48 (November 30, 2005) at 26.

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December 21, 2011

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

Re: Expanded Low Income Residential Assistance Program
Case 04-G-1047, National Fuel Gas Distribution Corporation – Rates
No action requested – letter submitted for information purposes only

Dear Secretary Brilling:

On April 26, 2006, the Commission issued an order ("LICAAP Order") approving a tariff providing for a then-new Low Income Customer Affordability Assistance Program ("LICAAP").[1] The LICAAP was designed in a collaborative process following the previous approval of a rate order in Case 04-G-1047, National Fuel Gas Distribution Corporation's ("National Fuel" or the "Company") 2004-05 rate proceeding.[2] The purpose of LICAAP was, and remains, to replace an earlier low-income assistance program known as the Expanded Low Income Residential Assistance Program ("ELIRA"), which itself succeeded an earlier, functionally identical low-income discount program ("LIRA"). The ELIRA is a straight discount service that reduces customer bills by $170 annually.[3] As contemplated by the Commission's LICAAP Order, ELIRA would be phased out as the LICAAP was phased in. Funding is currently set at $6 million annually for the combined programs.[4]

National Fuel has steadily reduced enrollment in ELIRA while increasing enrollment in LICAAP. Currently there are approximately 500 customers remaining in the ELIRA program. Because LICAAP provides greater per-customer benefits than ELIRA, the total number of customers that can be served by LICAAP is less than the number of enrollments achievable under ELIRA. Thus while LICAAP provides more comprehensive payment assistance than ELIRA, it also serves fewer customers. The purpose of this letter is to provide notice, solely for record purposes, of National Fuel's plan to re-open ELIRA enrollments, without reducing enrollment activity for LICAAP, to serve all sales[5] customers identified by the Company as having received emergency HEAP benefits during the 2011 HEAP Plan Year.[6]

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[1] Case 04-G-1047, *Order Approving Phase II Low Income Residential Assistance Program* (issued April 26, 2006).
[2] Case 04-G-1047, *Order Establishing Rates and Terms of Two-Year Rate Plan* (issued July 22, 2005).
[3] The LICAAP provides total bill discounts, arrearage forgiveness and conservation education for sales customers. Owing to its higher level of benefits and individual customer services, it is more costly than ELIRA on a per customer basis.
[4] To the extent that the annual ELIRA and LICAAP expenses are less than the $6 million allowance, the excess is deferred to support program costs in later years.
[5] The ELIRA is a bundled utility service that was not designed for transportation customers served by Energy Service Companies ("ESCOs"). Consequently, Emergency HEAP recipient ESCO customers will become qualified for the ELIRA discount at a later date upon the approval by the Commission of the Company's subsequently-filed proposal to amend the Company's ELIRA tariff.
[6] Subject to available funding, the ELIRA enrollment list will be updated on an annual basis for new emergency HEAP recipients.

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National Fuel's authority to increase enrollments for ELIRA is implicit in the LICAAP Order and the Company's tariff, which authorize both programs to operate in parallel with no termination date for ELIRA. Thus in National Fuel's opinion, there is no need to amend the tariff in order to achieve this effort's objectives (with respect to National Fuel's sales customers). National Fuel is submitting this letter to the Secretary to memorialize its plans described herein.

The Company is able to fund an increase in ELIRA enrollments without raising customer rates or charges because program costs for LICAAP have dropped as a result of reduced gas costs, producing an increase in the balance of available funds. In addition, gas costs are expected to remain significantly lower than those in effect when the Commission last addressed LICAAP and ELIRA funding levels in 2007.[7] Upon the request of the Department of Public Service staff ("Staff"), the Company identified accumulated LICAAP/ELIRA funds and developed a plan to (a) enhance outreach to increase enrollments in the LICAAP; and (b) re-open and increase enrollments in ELIRA. Increased LICAAP enrollments are continuing apace. The Company's plans are that the ELIRA discount will be applied to qualified customer bills beginning in January 2012 and will continue subject to available funding and customer eligibility.

Eligible customers will be enrolled automatically and will not be required to contact the Company or complete an application. As is standard for ELIRA, customers will receive a bill that is identical to an ordinary bill in every way except that the monthly minimum charge will be reduced by $14.17. To minimize customer confusion, National Fuel will provide outreach and education describing the Company's effort and instructing customers on what to expect.

The instant proposal to renew ELIRA enrollments was developed in consultation with Staff, and I have been authorized by counsel for Staff to state that the plan has Staff's support. Because the service list for Case 04-G-1047 is outdated and no longer reliable, this letter is being served on the more timely e-service list for Case 07-G-0141.

Respectfully submitted,

Michael W. Reville

cc: e-Service List for Case 07-G-0141

[7] Case 07-G-0141, *Order Establishing Rates for Gas Service* (issued December 21, 2007) at 65.