

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 16, 2000

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 00-G-0996 – In the Matter of Criteria for Interruptible Gas Service

ORDER DIRECTING UTILITIES TO FILE REVISED INTERRUPTIBLE
GAS SERVICE TARIFFS

(Issued and Effective August 24, 2000)

BY THE COMMISSION:

INTRODUCTION

On June 21, 2000, we proposed to require that jurisdictional utilities revise their procedures to help insure that interruptible customers are prepared for the possibility that their gas service could be interrupted. We also sought comments on a proposal to require that, as a condition of receiving interruptible service, customers have a certain supply of alternative fuel and that tariffs be revised to provide that customers not in compliance with the terms of service for interruptible service be charged a higher rate. The purpose of this order is to give the utility the necessary tools to ensure safe and reliable service for all customers at times of peak demands.

By this order we require the customer notification we proposed as well as tariff amendments and other related matters.

BACKGROUND

Interruptible gas service is designed to provide a means for utilities to meet peak gas demands in a least cost manner. Interruptible gas customers¹ (“interruptible customers”) elect service under the stipulation that during times of peak gas demand, and when called upon by the utilities, they will switch to alternate fuel sources. In exchange for providing system relief the interruptible customer receives a lower gas rate. Due to the short notice that often accompanies periods of interruption, interruptible customers are required by tariff to have alternate fuel on hand prior to the heating season.² Failure of an interruptible customer to have adequate storage of alternate fuel on site during a period of interruption will either result in the interruptible customer continuing to take gas from the system, despite a request by the utility to cease, or going to the spot market to purchase the alternate fuel.

Before last winter New York had experienced a period of warmer than normal winters that resulted in infrequent periods of interruptions. The 1999/2000 heating season was following the same trend of warmer weather up and until mid January. Thereafter, New York experienced a period of cold weather, with temperatures averaging 34-20% colder than normal, for the time period running from mid-January through January 29, 2000. Due to this occurrence utilities in New York were forced to call upon interruptible customers and temperature controlled customers to switch to alternate fuel sources several times during this cold spell in order for the utilities to meet the peak demand of firm customers.

As a result of these interruptions it has become apparent that the warm weather associated with previous winter seasons had produced some interruptible customers who were unprepared for periods of cold weather and the possibility of interruptions. During the interruptions, many interruptible customers either remained on the system or attempted to purchase alternate fuel on the spot market. Many of the oil

¹ There are three types of interruptible customers: basic interruptible customers, customers who can be interrupted on short notice at the option of the company and for as long as needed; temperature controlled customers, customers who are automatically switched to alternate fuel when the temperature falls below a certain level; and contract customers, customers who generally have the largest load and title to gas supplies and contracts for firm upstream capacity.

² KeySpan West (Brooklyn) is the only utility that requires interruptible customers to have, at a minimum, a ten-day supply of fuel on hand. The remaining utilities have no specific requirements other than requiring, in general, the interruptible customer to have “sufficient” fuel on hand.

dependent interruptible customers were forced to go into the already constrained spot oil market in an attempt to purchase oil in order to switch to alternate fuel during the on going interruptions. The distillate fuel¹ market was constrained due to below average levels of oil inventories in terminals, a switch to “just in time” inventory practices by oil suppliers, and frigid and windy weather conditions that disrupted transportation of fuel due to ice conditions or hampered unloading of oil from barges because of high seas. As a result of these constraints shortages in supply were experienced and some of the interruptible customers were unable to obtain the fuel necessary for them to cease taking gas from the system during the course of the interruptions.

COMMENTS

Comments have been received from Multiple Intervenors, the Empire State Petroleum Association (ESPA), the Independent Power Producers of New York, Inc. (IPPNY), the Nassau-Suffolk Hospital Council, Inc. (Hospitals), the State Consumer Protection Board (CPB), Finch, Pruyn & Company, Inc. (Finch), Rensselaer Polytechnic Institute (Rensselaer), the New York Energy Buyers Forum (Buyers Forum), the Industrial Energy Users Association (Energy Users) and Alcan Rolled Products Company (Alcan).

The Need for the Rule

Multiple Intervenors’ asserts that the Commission has not demonstrated that the interruptible transportation market warrants the rate adjustment and requirements set forth in the rule and that there has been no showing that the actions of interruptible customers have caused additional costs or operational problems for gas utilities or their customers. It argues that market based rate adjustments and requirements proposed in the rule are unnecessary and that because gas utilities may curtail customers upon two hours notice additional provisions are redundant and unwarranted. MI argues that the rule could hinder the development of a competitive natural gas industry and that it will burden some customers with the added financial responsibility of operating and maintaining oil fired equipment. Alcan makes similar arguments.

¹ Distillate includes diesel, kerosene, and No. 2 fuel oil.

Finch argues that the proposed rule would require undue gas utility interference with interruptible gas customers' business decisions and that it would effectively control the procurement decisions of private entities not subject to the Commission's jurisdiction. It asserts the proposed rule requires significant investment and could effectively limit customers' ability to make important economic decisions. Finch argues as well that there are other means of complying with utility interruption orders (such as performing maintenance or switching product lines).

Energy Users assert the rate is unnecessary and without merit.

ESPA, on the other hand, supports the Commission's proposed rule as a reasonable regulatory step to ensure that dual fuel interruptible gas customers actually have the alternative fuel storage capacity and inventory supplies in place prior to being interrupted. CPB similarly supports the Commission's proposal as an appropriate balance of complex issues that would go a long way toward avoiding a repetition of the problems of last winter.

There is a compelling need for us to help insure that interruptible customers fully comprehend the responsibilities and requirements associated with taking interruptible service prior to the start of the heating season in order to protect the reliability of the gas system in times of peak demand. Changes in the inventory practices of oil suppliers and the limited availability of alternative fuels, for example, add an element of risk that was not there before. Our proposed action may impose additional costs on some customers but that is the necessary price for ensuring gas reliability: those customers have decided to take a less reliable form of service because they purportedly have options; we are simply insuring that they meet all the conditions of the discounted service.

Scope of The Rule

Several parties argue that the rule should not apply to them.

MI argues that the imposition of the rule upon large interruptible transportation customers and customers using alternative fuels that have no impact on the supply or price of home heating fuel is unjust and unreasonable. It claims the Commission has failed to demonstrate that the actions of those customers have caused additional costs or operational problems for New York State gas utilities and that there is no basis for applying the rule to them. It claims as well that the rule should not apply to

interruptible customers that have special contracts with their gas utilities, since such an application would inappropriately foist contractual conditions and obligations upon the special contract customer that were not anticipated or intended by either the customer or the gas utility. MI argues that we have provided no discussion of the problems in the home heating oil market and that the rule is overly broad and unresponsive to any specific flaws in the oil markets.

IPPNY asserts there is no basis to apply the rule to electric generators because they are already in compliance with legitimate interruption standards and they have not adversely affected prices in the home heating oil market. It claims it is clear that electric generators have not contributed significantly to heating oil price increases and that it is highly unlikely that high oil prices last winter could have been caused by generating facilities. It also claims that application of the rule to electric generators could hinder the emerging wholesale competitive generation market if electric generators are forced to acquire and maintain ten days of oil storage supplies through on or off site arrangements, because generators will need to recover those costs through their energy bids to the market.

IPPNY next argues that any rule on the replacement or replenishment of fuel oil should apply only to gas utilities that have dual fuel interruptible tariffs, and only to customers that take service under those tariffs, and not to direct transporters on interstate pipelines taking service through Federal Energy Regulatory Commission-approved tariffs or contracts. IPPNY would also exempt from the rule generators that have individually negotiated contracts that do not require alternate fuel requirements or are prohibited from use of alternative fuel for up to ten days because of environmental considerations. It would have the rule apply only to customers that burn No. 2 fuel oil and not No. 6 fuel oil (which is not used for home heating), and would exempt other contract arrangements, such as peak shaving arrangements, from the 10 day and replacement rate requirements.

Several of IPPNY's requests have merit. The rule will not apply to direct transporters on interstate pipelines taking service through FERC-approved tariffs or contracts or to current contracts where the utility/generator have agreed upon less stringent requirements. The alternate fuel shortfall last winter was in distillate¹, and we

¹ Interruptible customers serving human needs end users such as hospitals, nursing homes and apartment houses will be subject to this rule regardless of the type of alternate fuel used.

will apply the rule only to interruptible customers who either use those grades of fuel oil or serve human need end users. Other alternate fuel users are on notice, however, that they must still have adequate supplies to meet periods of interruption, but we will not specify what minimum amount that should be. We stand ready to expand the applicability of these rules if future situations warrant change.

Finally, we note that contract interruptible customers raise issues that are not present with non-contract service, because we do not know all the conditions of service. In one sense these customers are generally the largest on the LDCs systems but the interruption implementation plans of the utilities may be different for them than for normal tariffed interruptible customers. For instance, they might be selected for limited interruptions to get over a few daily peak hours in which case ten days storage/backup may be excessive. Others may be interrupted on the same basis as other customers. Until we have answers to these questions we will limit the required storage inventory for these customers to five days for those contract interruptible customers with contracts that permit modification through Commission action.¹ We will direct the utilities that serve these customers during peak winter conditions to provide us within 30 days their interruptible priority for these customers to determine if the storage inventory should be greater or less than prescribed herein. Copies of those submissions shall be served on the company's relevant IPP or contract customers, who will have 20 days to reply.

Jurisdictional Issues

Several parties question the Commission's authority to take actions to mitigate spikes in home heating oil. IPPNY claims that the rule is not related to gas system safety, reliability or interruptible gas rates. On the contrary, the rule is directly related to the reliability of the utilities' distribution system. In times of great demand, there may simply not be enough gas for all who want it and interruptible customers must discontinue taking service. The utilities have designed their systems to meet a load that, by definition, does not include interruptible load and to the extent that load remains on the system, other load – firm customers – could be displaced. Having adequate oil on hand is a keystone of ensuring interruptible customers will be able to switch to alternate fuels when directed to do so.

¹ Utilities must file such contracts with the Commission in 15 days. All future contracts between interruptible customers and utilities will be required to meet the conditions established by this order.

Additionally, MI asserts any attempt to influence the home heating oil market is beyond our jurisdiction because the United States Department of Energy has been directed to establish a strategic reserve for home heating oil. As indicated, the rule focuses on the reliability of the natural gas distribution system. The fact that it may have an ancillary affect that supports the Department of Energy's goals certainly does not render the rule beyond our jurisdiction.

Operational Aspects of The Rule

Forced Replenishment

MI asserts that the proposed rule will not achieve the Commission's goal because it will force customers to replenish their fuel supplies during critical periods, thus exacerbating price and delivery problems. It claims that even customers that otherwise might elect to curtail operations in order to avoid alternative fuel purchases during critical periods will be forced into the market, thus exacerbating price spikes.

The rule as modified will not require that customers replenish fuel supplies on an ongoing basis to remain in compliance. Rather, customers are on notice that the required amount of storage is a minimum to achieve compliance. Customers remain at risk to have adequate inventories to meet greater periods of interruptions. If an individual customer elects, and such election is verifiable by the utility, to shut down an operation during critical periods the conditions of this Order would not apply. If the customer were found to have not shut down the operation during the critical period, all provisions of the utility's Interruptible Service Tariff would apply.

Storage Requirements

The rule as proposed requires ten days supply of alternative fuel only if the customer has enough storage capacity to hold that amount. If the available storage is less than would be used over ten days, the customer need only fill the available storage and prove to the utility's satisfaction that a relationship exists with an alternative fuel provider to supply the customer for the difference between its supply and the 10 days of required storage.

CPB recommends that we require dual fuel interruptible customers to maintain sufficient alternative fuel storage capacity on site to meet demand during an interruption of up to ten days. It points out that the rule as written could create an

incentive for interruptible fuel customers to reduce or eliminate storage capacity and that, in any event, interruptible customers without inventory compete with other fuel oil buyers and exacerbate upward pressure on fuel oil prices. CPB proposes that the storage requirements be phased in over the next year and that the Commission consider alternative arrangements for non-profit customers.

CPB's proposal, to have ten days of storage on site, is simply not practical. While it might indeed be helpful to have such storage, it is not at all clear that it is economic for many facilities to provide such storage, or even that they have the space to do so. Since we are not adopting a requirement for ten days of storage on site there is no need for a phase in period.

The Rule As Minimum Requirements

CPB states that it has reviewed other tariffs that already provide more stringent requirements for interruptible service customers. It proposes that the Commission decide that any rules adopted in this proceeding be adopted as only a minimum threshold and that they not preempt stronger existing requirements in utility tariffs. It notes, for example, that the Brooklyn Union tariff provides for a minimum storage requirement and also allows the utility flexibility in other respects.

CPB's point is reasonable. The rule will not override more stringent requirements.

Customer Response

ESPA proposes that the interruptible customer be obligated to respond with a written acknowledgement that it has received, read, and understood the tariff provisions and that the customer is in compliance with those provisions.

ESPA's requirement may be excessive, and we hesitate to become enmeshed in monitoring compliance of such a requirement. We will not adopt it now, but will be open to reconsidering the issue upon a showing that the mechanism that we are requiring by this Order isn't working. We will require, however, that the utility notice be sent by certified mail, return receipt requested.

ESPA next states its understanding that the letter and requirements proposed in the tariff apply only to sales customers and not interruptible transportation customers or interruptible generators. It proposes that we require utilities to notify

interruptible transportation and generation customers that pre heating season storage and inventory is both important and necessary. In addition, ESPA proposes that PASNY, LIPA and the ISO be informed of these new requirements because their practices directly impact the interruptible market, irrespective of the lack of Commission jurisdiction over said practices.

The rules we adopt herein apply to interruptible sales and transportation customers taking interruptible services under the tariffs that are subject to our jurisdiction.

Customer Education and Communication

The Buyers Forum raises several points related to the companies' communication with their customers. It notes, for example, that it is not clear whether the pre season heating letters reach the right people and asserts that education and communication are fundamental problems. It asserts that it has reminded its members of the importance of maintaining safe and reliable operations and that the utilities should bear that obligation as well. It recommends that each interruptible customer attend a training session for IT customers to be offered by the gas utilities each year and that the session place emphasis on the need to maintain dual fuel equipment, the reasons for service interruptions and related matters. It also raised various issues related to communications, suggesting that more than one mode of communication be used, at least two personal contacts be required, that the LDCs be required to test their notification system and that they notify customers at least 24 hours ahead of time. It also advises the Commission to consider all of the possible reasons why customers are in noncompliance and promote all circumstances that will encourage massive compliance with interruption notices under most conditions.

Communications must play a major role in assuring compliance with interruption notices and we expect the utilities to provide reasonable and effective notification.

Pricing of Noncompliant Customers

If the customer fails to have alternate fuel inventory on hand, as of November 1 of each heating season or becomes noncompliant during the winter period, the proposal is to charge the customer a rate equivalent to the cost of the alternate fuel

plus ten percent. This charge will be billed back to November 1 and until the point the customer comes into compliance with the tariff requirements. This non-compliance rate will apply in addition to any charges incurred under the current tariff for a customer who takes gas during an interruption.¹

MI assumes that provision means that interruptible sales and the interruptible transportation rates would be the same and would be based on the price of the oil commodity. It argues that because interruptible transportation customers do not purchase the gas commodity from the utility it is patently unfair to charge that price to transportation customers, who are not relieved of their separate gas purchase obligation. It claims the alternative rate should be modified to reflect the fact that an interruptible transportation customer has gas purchase obligations that an interruptible sales customer does not.

The alternative rate for transportation and sales customers should be the same. We would expect the utility to bill a sales customer for the incremental difference between gas costs already billed and the alternative rate. This incremental difference in cost would be billed to gas transportation customers as a surrogate for estimating a rate based upon the circumstances of individual transporters.

ESPA questions whether the payment of the alternative rate should be made to the gas utility. It recommends that the funds collected from the rate provision be placed in a separate account under the auspices of the New York State Energy Research and Development Authority (NYSERDA) and used for the upgrading of the state's petroleum distribution infrastructure system so that customers payments will be used directly to benefit those businesses and customers who are negatively impacted by the interruptible gas customers violations of the tariff.

We reject ESPAs suggestion that any charges be funneled through NYSERDA to upgrade the petroleum distribution system infrastructure. Gas consumers now fund part of NYSERDA's programs, some of which benefit oil consumers. The difference between the traditional rate and the alternative rate is to be refunded to gas consumers and not retained or shared by the utility.

Finch argues that the proposed rate is inequitable and that customers could be shouldered with enormous financial charges even in the mildest of winters where a gas

¹ The rule does not affect the current tariff rate that applies to those interruptible customers who continue to take gas during an interruption.

utility would not need to interrupt any customers. It asserts that it is inappropriate to impose a rate on an interruptible customer for failing to be prepared for interruption unless that customer causes the LDC to incur costs by refusing to cease taking gas in response to the LDC's proper directive. It goes on to assert that under the rule a gas utility would have a perverse incentive to find customers non-compliant since such a finding would translate into revenues for the utility. Finch goes on to argue that the rule is ambiguous. Finch next notes that the rule would allow the gas utility to inspect the customers' facilities and questions whether the inspection would be limited to a visual inspection or a more intrusive one. It argues that there is no discussion of how or why the 110% price of alternative fuel was selected or what the limits are on the utilities' authority here.

We reject Finch's argument that the rule should apply to only those customers who continued taking gas during an interruption. Reliability requires constant vigilance and should not be left to resolutions that are solely reactionary. As noted above, utilities will not benefit from charges. The amount of alternate fuel needed should relate to seven or ten days of usage by the customer during peak winter periods. These volumes should be worked out between the customer and the utility.

Some of Finch's points about the ambiguities in the proposal have merit; we expect utilities to respond to them and clarify the ambiguities in their filings.

Other Legal Issues

The State Administrative Procedure Act

Finch states that the asserted statutory basis for the proposed rule - Public Service Law § 66(12) - does not allow the Commission on its own initiative to require gas corporations to modify their tariffs to impose new rates and new requirements upon customers.

Finch's argument is belied by the words of the statute. Section 66(12) allows the Commission to require utilities to file rates as described in that section, and we properly relied on that section to allow us to set the terms for interruptible gas service.

Finch next alleges that we violated § 202(1)(f) by publishing only a summary of the proposed rule instead of the full text of the proposed rule. Publishing a summary is an available option for rules that exceed 2000 words (Finch notes the text for this rule is only 570 words.)

Finch's interpretation of the State Administrative Procedure Act ("SAPA") may be valid, if not extremely technical. The spirit and design of SAPA is to ensure that those who will be affected by the rule have had an opportunity to be heard and considered. Finch had full and complete notice of the rule, ample time to submit comments, and in fact, comment on the merits of the rule.

In any event, adoption of this rule also justifies an emergency action within the meaning of § 202(6). We take this action as an emergency pursuant to Section 202(6) of the State Administrative Procedure Act because immediate adoption of the rule is required to preserve the public health, safety, and general welfare. The failure of some interruptible customers to have viable alternative fuels last winter during a cold period led to a serious and significant problem that could recur with even greater severity this winter. Some customers that were supposed to cease taking service pursuant to the tariff failed to do so, thus putting significant strain on the distribution system and endangering the provision of an essential service to firm customers.

Any combination of events (such as colder weather or pipeline outages) could strain the resources of the distribution system in meeting demand. The proposed rule will ameliorate this risk because it will help insure that interruptible customers may be interrupted and indeed cease taking gas service. Delay in implementing the rule would be contrary to the public interest because the interruptible customers would not have time to plan for the winter and secure any necessary alternate fuel.

The Need for Hearings

The Hospitals state their understanding that the views of the gas utilities were expressly solicited and that they are not aware of any effort to solicit the views of the customers that will be affected. The views of all parties were solicited and considered in this rulemaking and the Hospitals have shown no procedural problem with our adoption of the rule.

The Hospitals next question our reliance on what they assert is the facile explanation put forward by gas utilities and oil dealers that last winter's home heating oil price spikes were due in part to a sudden increase in demand for oil resulting from gas customers being interrupted. They claim that there is no quantitative evidence supporting that conclusion and no critical examination of the gas utilities reasons and justifications

for interrupting their customers. It suggests the need for a hearing to examine those issues as well as a host of clarifying questions and related issues it raises.

There is no need for a hearing here because, among other things, our decision is driven by a focus on gas reliability, not past oil prices -- which are, in any event, a matter of the record. The statute does not require a hearing and we have an adequate basis to ensure that interruptible gas service is, in fact, interruptible.

Air Quality Limitations

IPPNY states that many gas fired generating facilities have air quality permit restrictions that limit the use of fuel oil at rates well below ten day periods and that some electric generators will be unable to comply with the rule. It also notes that the storage issue raises serious logistical issues with respect to the transportation of fuel oil and that the environmental issues raised by the requirement of on site storage should be thoroughly considered before the rule is implemented.

The rule will not require customers to violate air quality permits but those facilities which are subject to such restrictions are on notice that they are subject to periods of interruption as may be needed by the utility and would be expected to cease taking gas if necessary. The logistical issues are ones with which the customer must deal.

Basis for Interrupting Customers

The Hospitals state that Brooklyn Union-East interrupted it on 25 days last winter but that the temperature was only low enough to raise delivery capacity concerns on six of those days. It argues that “[b]ecause most of the interruptions were not driven by gas system needs, it appears that it was Brooklyn Union-East’s market manipulations, not customer oil inventory levels, that triggered fuel switching.”

The Hospitals complaint is far beyond the scope of this proceeding and is, in any event, entirely unsupported. Nevertheless we take this opportunity to restate our view that interruptions are to be for reliability reasons only; economic bases do not support interruptions of customers. As for the Hospitals’ specific complaint, we will require Brooklyn Union- East to respond to it within thirty days.

Conclusion

This order is designed to insure that utilities and interruptible customers work cooperatively towards maintaining a safe and reliable system for all customers. The successful operation of the interruptible gas service is paramount to securing and insuring the continued ability of utilities to provide safe and adequate service to firm customers during periods of peak demand. In order to achieve this goal, and prevent a repetition of last winter, utilities must file revised tariffs for interruptible service that will promote readiness on the part of interruptible customers and provide stringent procedures for utilities to perform preseason evaluations of interruptible customer preparedness.

Specifically, utilities must file revised interruptible service tariffs that require interruptible customers to have provable storage capacity and alternate fuel on hand to withstand interruptions of service for at least seven days for Temperature Control customers and ten days for other distillate users. Temperature Control customers are required to switch to their alternate fuel supply at lower temperatures than basic interruptible customers and are returned to service when temperatures rise 5° above the cutoff temperature. The period of interruption for this class of customers is often measured in hours rather than days. A seven day supply of oil seems reasonable for this class of interruptible customer. On demand (fully) interruptible customers' periods of interruption are generally longer than that experienced by Temperature Control customers which justifies a higher level of inventory. The rates for this class of interruptible customer generally reflect this lower priority of service.

Additionally, if the interruptible customer lacks sufficient storage to hold either seven or ten days of supply, utilities must require those interruptible customers to enter the heating season with filled tanks and arrangements, suitable to the utility but not dependant upon spot market purchases, for replenishment of storage tanks such that the initial storage plus replenishment equals storage inventory for its type of service.¹ Regardless of the amount of storage capacity an interruptible customer has the customer must be prepared to remain on alternate fuel for the duration of an interruption.

¹ If physical plant constraints or availability of oil make compliance with this order excessively burdensome, we encourage utilities and interruptible customers to seek staff authorized innovative resolutions that may vary from the requirements of the this order but do not jeopardize safety or reliability.

Specifying the amount of storage of alternate fuel an interruptible customer must have on hand at the beginning of the season is only one step among several that should be taken by the utilities to insure system reliability. Utilities should develop and implement for the heating season of 2000/2001, and thereafter, a plan to conduct a limited number of physical checks of interruptible customers.¹ This plan should include, but is not limited to: an on-site inspection of a random sampling of the utilities interruptible customers; and an on-site inspection of any interruptible customer who failed to switch to alternate fuel in the 1999/2000 heating season and in subsequent winters.

Additionally, the utilities should provide a new rate for interruptible customers who fail to switch to alternate fuel during interruptions. Given last season's performance, it appears that current rates, which apply only when the customer continues taking gas, are not economically motivating customers to comply with the conditions of service, i.e., having adequate alternate fuel and switching over when called upon. Utilities should develop a rate to be applied to interruptible customers that fail the above-mentioned physical spot checks. This rate should be set at ten percent (10%) above the cost of alternate fuel measured from the discovery of non-compliance back to November 1. The rate for interruptible transportation customers found to be in non-compliance should be designed so that it, in combination with an estimate of the customer's gas cost, would exceed the market value of oil. Once the interruptible customer demonstrates compliance it will revert back to the discounted interruptible rate.

Due to the magnitude of these changes and the impending approach of the winter heating season, it is important that every utility notify interruptible customers, prior to September 15, 2000, of the new requirements and rates for non-compliance by means of a certified letter, return receipt requested. Although not required, an additional notification and reminder to interruptible customers of the changes to the terms of services should be sent closer to the winter heating season.

¹ At the present time these requirements only apply to those interruptible customers who rely on distillate oil or who serve human needs customers such as hospitals, nursing homes and apartment houses regardless of the type of alternate fuel used.

The Commission orders:

1. Utilities are directed to file revisions to their interruptible tariff provision consistent with the determinations set forth in this order. These revisions shall be filed within ten days of issuance of this order with an effective date of October 1, 2000, and the requirement of Section 66(12)(b) of the Public Service Law as to newspaper publication of the changes proposed by these tariff revisions is waived.

2. Utilities shall send a certified letter to interruptible customers no later than September 15, 2000, return receipt requested, informing them of the tariff changes directed in Clause 1 above.

3. Utilities shall prepare a plan for physical spot checks as to compliance with the new requirements of the tariff.

4. This action is being taken as an emergency action pursuant to Section 202(6) of the State Administrative Procedure Act.

5. This proceeding is continued.

By the Commission,

(SIGNED)

JANET HAND DEIXLER
Secretary