STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on February 13, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard.

ORDER APPROVING IN PART AND DENYING IN PART NATIONAL FUEL GAS DISTRIBUTION CORPORATION'S PETITION TO MODIFY CERTAIN ENERGY EFFICIENCY (EEPS) PROGRAMS

(Issued and Effective February 19, 2013)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission authorizes National Fuel Gas Distribution Corporation (NFG) to reallocate budgets and savings targets between its Residential Rebate (Residential) program and its Low-income Usage Reduction (Low-Income) program, and denies its request to reallocate budgets from its Non-Residential Rebate (Non-Residential) program to its Area Development (Development) program.

BACKGROUND

Conservation Incentive Program

By order issued September 20, 2007, the Commission first approved NFG's energy efficiency programs, known collectively as the Conservation Incentive Program (CIP)[1] and consisting of a Residential program, (2) a Non-Residential Rebate program and (3) Low-Income program. The New York State Energy Research and Development Authority (NYSERDA) administers the Low-Income program through its EmPower Program and the Non-Residential program through its Existing Facilities Program. Following a collaborative process originally contemplated by the September 2007 Order, the CIP was extended through the 2008-2009 program year. The Commission reauthorized the program on October 19, 2009,[2] and on November 22, 2010, [3] each time modifying the programs slightly

On October 25, 2011, the Commission integrated NFG's three gas efficiency programs into the EEPS program, establishing an annual budget of $10.04 million for the years 2012 through 2015.[4] The October 2011 Order allowed NFG to maintain its contractual relationship with NYSERDA for administration of the Low-Income and Non-Residential programs, while NFG retained administration of the Residential program. In addition, the October 2011 Order directed NFG to work with Staff to develop targets for each of the three CIP programs.

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[1] Case 07-G-0141, National Fuel Gas Distribution Corporation - Rates, Order Adopting Conservation Incentive Program, issued September 20, 2007 (September 2007 Order).

[2] Case 07-G-0141, supra, Order Approving the Continuation of National Fuel Distribution Corporation's Conservation Incentive Program with Modifications, issued October 19, 2009.

[3] Case 07-G-0141, supra, Order Approving the Continuation National Fuel Gas Distribution Corporation's Conservation Incentive Program with Modifications, issued November 22, 2010.

[4] Cases 07-M-0548 et al., Energy Efficiency Portfolio Standard (EEPS), Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule, issued October 25, 2011 (October 2011 Order).

Area Development Program

On June 2, 2006, the Commission approved a five-year Development program[5] with an annual budget of $750,000 to provide grants to community based organizations or local development authorities for specific economic development projects in NFG's service territory. On April 20, 2012, the Commission approved an extension of the Development program and authorized NFG to use $1.5 million from a Tennessee Pipeline refund[6] to fund the program.

NFG's FILING

In its August 15, 2012 filing, NFG proposes to reallocate approximately $1.1 million of its annual Residential program budget to the Low-Income program and to transfer $750,000 from its Non-Residential program to its Development program. NFG states that expenditures for the Residential program and the Non-Residential program are considerably less than the budgets established in the October 2011 Order and the company expects this trend to continue. NFG lists a number of causes for the declining participation in its programs including the elimination of rebates for water heaters; reductions in rebate levels; declining/disappearing federal tax credits; low natural gas prices; and the continuing depressed economy in Western New York. Due to the poor performance of the program, NFG proposes to reallocate $1.1 million from the Residential program annual budget to the Low-Income program annual budget. Similarly, due to the poor performance of the Non-Residential

[5] Case 04-G-1047, National Fuel Gas Distribution Corporation – Rates, Order Approving Area Development Program, issued June 2, 2006.

[6] Case 04-G-1047, supra, Order Approving Extension of Area Development Program, issued April 20, 2012.

program, NFG requests to reallocate $750,000 annually from its budget to the Development program.

NFG indicates that it has worked with NYSERDA to develop an automatic enrollment system for the Low-Income program that identifies qualified applicants and that this enrollment process has the capacity for the additional workload that would result from the proposed reallocation. The company asserts that because the Low-Income program requires no contribution of funds from participants, it is unlikely to experience the same decline in participation as the other programs.

With regard to the transfer of funds to the Development program, NFG asserts that the economy’s general malaise continues to have a negative effect on business conditions in Western New York and that a coordinated area wide development effort can help address the need for employment opportunities. NFG proposes to use the transferred funds for small business customers (less than 12,000 Mcf annually) with a specific natural gas efficiency application.

NOTICE OF PROPOSED RULE MAKING

A Notice of Proposed Rule Making concerning NFG’s petition was published in the State Register on September 19, 2012 (SAPA 07-M-0548SP74). The minimum period for the receipt of comments pursuant to the State Administrative Procedure Act (SAPA) regarding this notice expired on November 5, 2012. One set of comments was received from the Weatherization Advisory Group.

SUMMARY OF COMMENTS

Comments received on October 9, 2012 from the NYS Weatherization Advisory Committee support increased funding for low-income programs. The Weatherization Advisory Committee, composed of representatives from communities and government agencies throughout the State, points to reductions in federal funding for the Weatherization Assistance Program, the weak economy and high levels of unemployment as the basis for its position.

DISCUSSION

We note that as of November 2012, NFG has spent only 34% of its 2012 Residential program budget achieving 34% of the program's expected energy savings.[7] The November 2012 Low-Income data shows that the program is on track, spending 79% of its 2012 budget and achieving 81% of expected energy savings.

Given the uneven performance of the two programs, we see no reason not to reallocate funds toward the better performing program. Although we desire to maintain rough funding equity between different customer classes, where there is diminished demand for energy efficiency service within a particular group of customers, its seems reasonable, if not necessary, to reallocate funds to areas where the funds are likely to be in demand. Therefore, we authorize NFG to reallocate $1,115,047 from its Residential program to its Low-Income program.

We deny NFG's request to transfer $750,000 of EEPS funding to its Development program. While the Development program is useful for addressing the economic needs of Western New York, EEPS and the funds associated with the portfolio are specifically targeted toward energy efficiency measures. We support NFG's desire to incorporate energy efficiency into

[7] The establishment of savings targets for NFG's three programs is addressed later in the order.

economic development projects and we see no reason that participants in the Development program cannot take advantage of the benefits of the energy efficiency programs. However, EEPS programs and funds must be administered in accordance with the rules and policies we have established in this proceeding.

Finally, the October 2011 Order approved NFG program budgets without establishing corresponding savings targets and we directed Staff to work with NFG to develop those targets. After submitting proposed targets and supporting documents for Staff’s review, NFG incorporated the targets in their Implementation Plan filed December 27, 2011 and revised on March 29, 2012. We find that the NFG’s filed targets are reasonable. The approved budgets and targets, reflecting the transfer of funds described above, are listed in the attached appendix.

SEQRA FINDINGS

Pursuant to our responsibilities under the State Environmental Quality Review Act (SEQRA), in conjunction with this order, we find that programs modified here are within the overall action previously examined by us in Case 07-M-0548 and will not result in any different environmental impact than that previously examined. In addition, the SEQRA findings of the June 23, 2008 Order in Case 07-M-0548 are incorporated herein by reference and we certify that: (1) the requirements of SEQRA, as implemented by 6 NYCRR part 617, have been met; and (2) consistent with social, economic, and other essential considerations from among the reasonable alternatives available, that action being undertaken is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

CONCLUSION

For the reasons discussed above, we approve NFG's proposal to reallocate funds from its Residential program to its Low-Income program and deny the company's request to reallocate funds from its Non-Residential program to its Development program. We also establish energy savings targets for NFG's three energy efficiency programs addressed here.

The Commission orders:

1. NFG is authorized to modify the Residential Rebate Program and the Low Income Usage Reduction Program budgets as described in this Order and the attached appendix.

2. Within 30 days of the issuance of this Order, NFG shall submit to the Secretary revisions to their program implementation plans addressing the changes authorized in this order.

3. The Secretary is authorized to extend the deadlines set forth herein.

4. This proceeding is continued.

By the Commission,

(SIGNED) JEFFREY C. COHEN
Acting Secretary

Approved Program Costs and Savings Targets

NFG	**2012**	**2013**	**2014**	**2015**	**Total 2012-2015**	% of Budget
Low Income Usage Reduction Program (R-LI)						
Savings (Dekatherms)	38,322	38,322	38,322	38,322	153,288	
Program & Admin. Costs	$4,919,791	$4,919,791	$4,919,791	$4,919,791	$19,679,164	95%
Evaluation/M&V Costs	$258,936	$258,936	$258,936	$258,936	$1,035,744	5%
Total	$5,178,727	$5,178,727	$5,178,727	$5,178,727	$20,714,908	
Residential Rebate Program						
Savings (Dekatherms)	147,339	147,339	147,339	147,339	589,356	
Program & Admin. Costs	$2,801,201	$2,801,201	$2,801,201	$2,801,201	$11,204,804	95%
Evaluation/M&V Costs	$147,432	$147,432	$147,432	$147,432	$589,728	5%
Total	$2,948,633	$2,948,633	$2,948,633	$2,948,633	$11,794,532	
Small Non-Residential Rebate Program (C&I)						
Savings (Dekatherms)	124,230	124,230	124,230	124,230	496,920	
Program & Admin. Costs	$1,817,008	$1,817,008	$1,817,008	$1,817,008	$7,268032	95%
Evaluation/M&V Costs	$95,632	$95,632	$95,632	$95,632	$382,528	5%
Total	$1,912,640	$1,912,640	$1,912,640	$1,912,640	$7,650,560	