STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on April 17, 2002

COMMISSIONERS PRESENT:

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

CASE 00-G-1858 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation.

ORDER ADOPTING TERMS OF JOINT PROPOSAL

(Issued and Effective April 18, 2002)

BY THE COMMISSION:

INTRODUCTION

On October 23, 2000, the Commission set National Fuel Gas Distribution Corporation's (NFG) gas rates through September 30, 2003 and, in so doing, reduced customer bills by about $19 million for year one and $5 million thereafter.[1] At the time, NFG acknowledged its responsibility to restructure gas rates to make them more conducive to competition, and to allow marketers and suppliers to participate more effectively in the natural gas industry.[2] The company committed to continue working with interested parties on these matters.

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[1] Case 00-G-1495, National Fuel Gas Distribution Corporation – Gas Rates, Order Establishing Rates for Gas Service (issued October 23, 2000).

[2] Case 93-G-0932 et al., Restructuring A Competitive Natural Gas Market, Policy Statement Concerning the Future of the Natural Gas Industry in New York (issued November 3, 1998).

In April 2001, NFG and various parties provided an interim proposal to foster competition while they worked on the longer-term measures needed to achieve the Commission's objectives.[3] In general, the interim measures addressed firm capacity requirements for marketers, local production of indigenous natural gas supplies, the balancing of transportation customer supplies with their consumption, and marketer use of NFG’s storage capacity.

Since then, the parties have arrived at further plans to restructure NFG’s gas rates. On January 22, 2002, they submitted a Joint Proposal that was issued for public comment.[4] The Joint Proposal is endorsed and supported by NFG, Department of Public Service Staff, Multiple Intervenors, a large group of marketers, regional pipeline companies, natural gas producers, and a broker. They include: Crown Energy Services, Inc.; Dynegy Marketing & Trade, Inc.; Energetix, Inc.; Independent Oil & Gas Association of New York; Lenape Resources, Inc.; LepCorp, Inc.; National Fuel Resources Inc.; Nornew Energy Supply, Inc.; Norse Pipeline, LLC; North American Energy Inc.; the Small Customer Marketer Coalition; Texaco Energy Marketing, Inc.; and, the Village of Hamburg Municipal Utility. No adverse comments have been submitted in opposition to the Joint Proposal.

THE JOINT PROPOSAL TERMS

The terms of the Joint Proposal address a wide range of matters essential to effective competition and customer choice. The provisions unbundle purchase gas costs and the functions that marketers use. The terms also remove barriers to competition while protecting service quality and service reliability for all customers. The proposal also contains assistance provisions for low-income, elderly and disabled customers.

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[3] Case 00-G-1858, Order Concerning Joint Proposal (issued May 30, 2001).

[4] Case 00-G-1858, Request for Comments on A Joint Proposal (issued January 30, 2002).

Transportation Service

Customer-owned gas supplies account for about one-third of the natural gas NFG delivers. Most large-volume customers and all small-volume customers rely on marketers to purchase gas supplies and to schedule deliveries. The Joint Proposal would streamline NFG's transportation service and implement lower charges.

NFG will simplify its offerings to marketers by providing the same Supplier, Transportation, Balancing and Aggregation (STBA) Service in lieu of the three options now offered.[5] Capacity on the National Fuel Gas Supply Corporation's (Supply Corporation) intermediate pipelines will continue to be assigned to marketers; however, all marketers will be permitted to secure their own capacity on pipelines upstream of Supply Corporation.

The Joint Proposal provides that NFG will conduct a study of its intermediate capacity requirements to determine the most economic and reliable combination of capacity options for it on the Supply Corporation system. The study will be used to establish the terms and conditions for marketers to obtain intermediate capacity either from Supply Corporation or from other providers that can replace the capacity that NFG Distribution would otherwise obtain.[6]

NFG will also eliminate the current non-competitive pricing mechanism it uses to price transfers of gas supplies in

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5 STBA service is NFG's standard aggregation service for marketers. It includes delivery service, balancing services, upstream storage and transmission capacity, among other things. It permits marketers to perform their own customer billing or to subscribe to NFG's billing service.

6 That study has been completed for this year, in time to meet the requirement of NFG to notify Supply Corporation by April 1, 2002 whether it intends to modify their current contract. The study will be revisited annually.

storage between the company and marketers.[7] The new price will equal the weighted average commodity cost of the gas injected into storage (April to October). This rate will also be the price that NFG pays when it purchases gas in storage from suppliers. The new rate will be calculated monthly and filed with the Commission as part of the company’s GAC filing.

Suppliers will continue to be required to fulfill their end-of-the-month (EOM) storage inventory requirements, within a two percent tolerance level, according to a new schedule. Should a supplier fall below the tolerance level, NFG is not obligated to sell gas to the supplier to accommodate the shortfall. Suppliers will have five days to correct the inventory deficiency or will be in default and subject to involuntary discontinuance of service. NFG may terminate service to a supplier who fails to meet its EOM requirements more than twice in twelve months. Once terminated, a supplier will be precluded from obtaining STBA service for three months.

NFG will eliminate its imbalance trading fees. The company will require that the net effect of all trades made during the month improve the imbalance positions of the trading party, and will not process trades that increase a supplier’s negative position. NFG will not automatically cash out supplier over-deliveries when they occur. In general, NFG will require suppliers to operate within specified tolerance bands, and suppliers may elect to have NFG cash out their imbalances at the end of the month.

Large-volume transportation customers are responsible for nominating and balancing their gas supplies. They often use marketers to manage their deliveries and frequently join “customer balancing and aggregation groups” to net out imbalances with others in the group. The Joint Proposal permits these customers to avoid end-of-month deficiency imbalance

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[7] The Joint Proposal uses the terms “marketers” and “suppliers” interchangeably and attributes to them the same meaning as the terms have in the Uniform Business Practices adopted in Case 98-M-1343, Retail Access Business Rules, Common Utility Document of Business Practices (issued March 10, 2000).

charges by transferring storage gas to NFG so long as they continue to meet their storage inventory requirements after the transfer. Marketers and customers must reimburse NFG for trading fees and other costs incurred for such transfers.

Small-volume transportation customers use suppliers who subscribe to NFG's STBA service. Those suppliers have the flexibility to deliver gas supplies to NFG's system from various sources; nonetheless, their supplies must fulfill their aggregated daily delivery quantities. Shortfalls cannot be balanced with storage gas from NFG Supply at present.[8] Suppliers must schedule their deliveries in advance or use intra-day nominations to meet their daily requirements.

Pursuant to the Joint Proposal, NFG will eliminate mandatory capacity assignment for certain transportation customers with annual consumptions greater than 5,000 Mcf/year.[9] Customers with annual consumption levels less than 5,000 Mcf/year who currently enjoy capacity assignment exemptions will be required either to subscribe to capacity, return to NFG's firm service, or execute an affidavit to remain as capacity exempt customers. The affidavit would acknowledge that NFG is not required to provide the transportation customer firm sales service at average cost rates should it return to firm service. NFG's stand-alone transportation service for customers consuming 3,500 to 4,999 Mcf/year (and who are subject to mandatory capacity requirements) is not affected by these provisions of the Joint Proposal.

The Joint Proposal would also permit NFG to implement a $7.00/Mcf charge for volumes in excess of 5% of consumption, in addition to other gas supply charges when it sells gas to interruptible sales service customers during unauthorized

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8 NFG has agreed to study this matter.

9 They are post-May 1996 non-critical service (e.g., non-human needs) customers. A separate incremental gas adjustment clause rate will be established for these transportation customers that return to NFG's firm sales service.

periods when such transaction will not jeopardize system reliability.

To assist marketers in aligning their intermediate capacity receipt points with their delivery points on the upstream pipeline, the Joint Proposal provides an open season during which marketers may submit to NFG their capacity requests and their preferred Supply Corporation receipt points and quantities. NFG will use its efforts to accommodate the supplier requests on a first-come, first-served basis.

NFG currently imposes a transition surcharge on customers who migrate from sales to transportation service in order to recover stranded capacity costs. The company has agreed to revise that calculation. In addition to a transition surcharge for upstream capacity, NFG will implement a transition surcharge for a portion of its intermediate pipeline capacity that is displaced by other alternatives. If the company has no such recoverable costs, the surcharge will be set at zero.

NFG will appoint an officer-level representative to serve as its ombudsman to marketers. The ombudsman will address unresolved marketer concerns and serve as their liaison. NFG will also survey marketers annually to measure their satisfaction. The survey will be administered by staff or an independent third party and may be revisited to incorporate changes agreed to by the company, staff, and interested parties.

Finally, the tolerance band that currently applies to monthly-metered transportation service for daily-delivery quantities will end on September 30, 2003. Subsequently, the Joint Proposal would apply a tolerance band ranging from 90% to 110% of daily-average normalized consumption for the month. The parties have agreed to study the need for daily balancing of transportation customers; however, no changes will be made before September 30, 2003.

Backout Credits

NFG currently provides marketers and customers a “billing credit” of 80 cents per avoided bill when an entity other than NFG performs the billing function. NFG plans to petition the Commission for permission to recover the net revenue deficiencies it experience from providing this credit.

The Joint Proposal would also offer a “competition backout credit” to reflect gas supply purchasing and administration costs, certain customer care elements, and other costs that NFG avoids when marketers serve customers. The credit will be set at $3.30 per customer/month for marketers who perform billing functions and $1.60 for those who use NFG’s billing service. The credits would apply as of October 1, 2001 and they would remain in effect to no later than September 30, 2003. To receive the credit, marketers must certify to staff that at least half of the credits they receive will go to their customers from October 1, 2001 through December 31, 2001.

The Joint Proposal would guard NFG from revenue deficiencies due to the competition backout credit by allowing it to obtain funds from the gas rate restructuring (GRR) cost recovery mechanism that is discussed below. If the Commission ultimately grants NFG’s petition to recover billing credit revenue deficiencies, the GRR mechanism could also be used for this purpose.

Local Producer Matters

Some five percent of the gas that NFG distributes originates in local production fields in New York. Local production can replace upstream pipeline capacity reliably when it is metered on a real time basis, in the same manner as the pipeline delivered gas. The Joint Proposal promotes the use of local production without the daily metering requirements by allowing 60% of the monthly volumes to replace upstream pipeline capacity that is otherwise needed for aggregation service. The arrangements between NFG and the local producers are governed by an interconnection agreement appended to the Joint Proposal and by the terms of the Joint Proposal. NFG will charge fees for inspection of production meters and related facilities and for various additional testing that may be required.

Cost Mitigation and Deferred Expenses

The Commission has authorized NFG to use deferral accounting for certain types of revenues and expenses. The Cost Mitigation Reserve (CMR) was established for environmental work (site investigation and remediation), pension costs, other post-retirement employee benefits (OPEBS), and Internal Revenue Service audit expenses. The Gas Restructuring Reserve (GRR) was established for costs associated with the restructuring of the natural gas industry in New York. The Joint Proposal would continue both reserves. A portion of capacity release credits and off-system sales revenues will be used to fund the CMR, as would any service quality or safety penalties that are imposed on the company pursuant to other terms of the Joint Proposal. Funds may also be obtained, if needed, from the annual GAC reconciliation and several other sources.

The Joint Proposal would allow NFG to use the CMR for pension and OPEB costs above a specified level; uncollectibles; programs for elderly, blind and disabled customers; outreach and education expenditures and incentives; working capital requirements; a Transportation Shrinkage Adjustment; and the low-income residential customer assistance programs.

The GRR is currently funded (over $8 million as of June 30, 2001) and will receive additional revenues from marketers that use NFG’s billing services, as well as from interest on the fund balance. If the GRR becomes depleted and more funds are needed, a surcharge may be applied to the delivery charge that customers pay. The GRR is available for NFG to recover billing backout credits (should the Commission grant its petition), and competition backout credits. It is also available, up to $5 million, for specified incremented system enhancements related to gas industry restructuring efforts. The company will be required to petition the Commission for any such expenditures above that amount.

Service Quality and Gas Safety Provisions

The Joint Proposal contains provisions to ensure acceptable levels of customer service. It applies a service quality performance mechanism to NFG that is keyed to the areas that are most apt to be affected by competitive market developments. Should service suffer, NFG could incur financial penalties to a maximum of $1.5 million per year.

The Joint Proposal also establishes penalties, to a maximum of $0.8 million per year, that would apply to NFG should it fail to meet various safety performance measures. Those penalties apply to the fiscal years ending September 30, 2002 and 2003 in the areas of damage prevention, gas emergency response, quality assurance and control, and bare steel main replacement and reduction.

Outreach and Education

The Joint Proposal requires NFG to measure customer awareness and understanding of the natural gas choices available to them. The company will conduct a baseline and annual tracking surveys of these attributes, and the results of the baseline survey will be evaluated and the company's outreach and education efforts adjusted as the results suggest. To encourage NFG to increase customer awareness and knowledge, incentives are provided, tied to performance as measured by the tracking surveys.

Assistance for Residential Customers

The Joint Proposal would extend and expand NFG's low-income residential assistance efforts. The existing program will be phased out and its participants will be transferred to the new program. Rate discounts will be smaller under the new program; however, more customers are expected to benefit from them. Up to 30,000 customers would be eligible for rate discounts and a one-time forgiveness of arrearages. Up to $3 million will be available for arrearage payments in the first year of this program. Special efforts begun in 1998 to assist elderly, blind and disabled customers will continue to be funded.

NFG Affiliates

NFG is a wholly-owned subsidiary of a holding company that also owns a regulated pipeline company and an unregulated electric and gas marketing company, among others. The Joint Proposal contains a set of rules which address certain types of transactions between NFG and its affiliates to insure that the affiliates are not favored in their dealings with NFG. The company's adherence to the rules eliminates the application of any royalty payments from affiliates to NFG and avoids the use of other remedial action by the Commission. So long as the company complies with the rules, this provision will remain in effect, surviving the expiration of the Joint Proposal.

GAC Matters

Rate restructuring in the gas industry requires revisions to the utility companies' gas adjustment clause (GAC) mechanisms in compliance with a prior Commission order.[10] The Joint Proposal would unbundle NFG's GAC and establish separate charges for distribution services and gas supply (commodity and capacity). Also, the base cost of gas would be removed from tariff rates.

The Joint Proposal would permit risk management costs to be included as a component of gas costs and allow estimated prices to be included in the GAC.[11] The demand component of the cost of gas would be calculated using weather normalized estimated volumes; the commodity component would be calculated using estimated monthly volumes. Interim GAC reconciliations may be made in accordance with the Commission's regulations; revised GAC filings may be submitted when the use of actual prices could produce over a five percent change in the cost of gas. GAC statements will include weather normalization clause factors for each billing cycle.

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[10] Case 97-G-1178, Gas Utility Rules and Regulations, Memorandum and Resolution (issued April 13, 1999).

[11] Of course, such costs must be reasonable and prudent to be recovered from customers.

The Joint Proposal would also change the method NFG uses to price storage gas sold to customers during the winter. Instead of the current method, which prices storage gas at winter prices and make after-the-fact adjustments to provide customers the benefit of the summer prices at which the gas was purchased, the company will price the gas at its actual cost when injected into storage. This will help to mitigate volatility in winter gas prices.[12]

Finally, the annual reconciliation of the GAC will be adjusted. For the period ending August 31, 2001, NFG has a $44.3 million gas cost over-collection. Rather than refund the entire amount, the company has adjusted this sum for its working capital requirements, a transportation shrinkage adjustment, and to update its lost and unaccounted for gas adjustment. The remaining amount was returned to customers in a billing cycle early this year to provide customers relief from high winter gas bills.[13]

Lost and Unaccounted For Gas[14]

The Joint Proposal would establish a two percent lost and unaccounted for factor for the three-year period from October 1, 2000 to September 30, 2003. It would also apply the same two percent factor to the transportation rate. As a result, for the period ending September 30, 2001, NFG will apply $535,721 to eligible customers and suppliers as a one-time credit on their bills. In subsequent periods, until the two percent factor is actually implemented, NFG will provide

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[12] This change also requires an adjustment to NFG's cash working capital to reflect a reduction in customer pre-payments.

[13] Case 00-G-1472, In the Matter of the Filing of Annual Reconciliation of Gas Expenses and Gas Cost Recoveries (Order issued January 23, 2002).

[14] In 1990, the Commission established a mechanism to provide gas utility companies an incentive to control the amount of lost and unaccounted for gas on their respective systems. The mechanism limits the amount of gas that can be charged to customers.

eligible suppliers non-cash, in-kind, gas supplies for any excess delivered during the period.

Unbundled Rates

The Joint Proposal requires NFG to unbundle its existing service rates to separately state its distribution (delivery) and gas supply charges. This will make it easier for customers to compare NFG’s rates with other supply options and transportation alternatives.

NFG will make its non-gas cost base rate structure similar for residential and small volume commercial sales and transportation customers so that customers can easily compare their rates with marketers’ services.

In addition, NFG is participating in the Unbundling Track of Case 00-M-0504, which is also developing unbundling requirements. The Joint Proposal contains provisions recognizing that unbundled rate requirements that will emerge from that proceeding will control further unbundling of NFG’s rates and will take precedence. In general, the company will be allowed to recover or defer revenue deficiencies from its implementing unbundled rates.

Billing Format

The parties will continue to work collaboratively on a billing service to replace the temporary format that NFG currently uses for its transportation customers. The new service should provide customers additional information and make their bills more understandable. It is also expected to provide them a comparison price and be able to accommodate the introduction of unbundled rate components.

Equity Earnings Sharing Calculation

The parties have proposed to clarify a requirement adopted in Case 00-G-1495 that requires NFG to share equally with its customers any excess equity earnings over 11.5 percent.

The proposed clarification specifies the capital structure to be used for this calculation and sets the earnings base/ capitalization adjustment at zero.

SUPPORTING STATEMENTS

On or about February 8, 2002, NFG, Staff, Multiple Intervenors and Dynegy Marketing & Trade, Inc. submitted statements supporting the Joint Proposal.[15]

NFG supports the Joint Proposal by noting its breadth (that includes competition matters, local gas production, transportation service, marketer needs, residential customer assistance, service quality and various other matters) and the cooperative work that sixteen parties performed to achieve these results. NFG asserts that proper implementation of the Joint Proposal will produce benefits for consumers by comprehensively addressing the Commission’s policy statements and restructuring requirements.

Multiple Intervenors, on behalf of 60 large commercial and industrial energy consumers, supports the Joint Proposal specifically for its transportation service balancing provisions. Favorable balancing charges for these firms assist them in their respective businesses and help them to continue to operate in the upstate regions where many of them are located. Multiple Intervenors plans to remain active in the studies that the Joint Proposal establishes to review balancing charges and daily balancing requirements.

Dynegy, an independent marketer of natural gas and electricity, among other things, states that the Joint Proposal places NFG in a good position to address emerging changes in the competitive markets. It favors the competitive opportunities that the proposal provides energy service companies and gas producers. Dynegy points specifically to the liquid capacity markets the Joint Proposal fosters, and to its elimination of

[15] Energetix, Inc. also submitted a letter supporting the Joint Proposal. It points to all the support the proposal has from a large number of diverse parties. As noted above, the Joint Proposal has not engendered any opposition.

cumbersome operational rules. It favors the opportunities it provides for suppliers to acquire their own capacity, and its use of standard interconnection agreements for local production. Dynegy also supports voluntary cash-outs of positive imbalance positions, unbundled rates, the additional backout credits, and the elimination of imbalance trading fees.

Department of Public Service Staff also supports the Joint Proposal. It favors the proposal's rate restructuring provisions that foster competition, its resolution of several ratemaking issues, and its customer programs. Staff favors, as well, the improvements the proposal contains for marketers to compete and the provisions applying to local gas producers. Staff states that the Joint Proposal is consistent with the Commission's policies and keeps NFG's capacity contracts to a minimum while fostering capacity options and other alternatives. Staff favors the unbundling of rates NFG will implement and sees them as providing customers better opportunities to shop for alternatives and to evaluate their choices. Staff also credits NFG's willingness to improve its communications with marketers and to expand its residential customer assistance programs.

DISCUSSION

To begin, we observe that the terms of the Joint Proposal are unopposed. The provisions address a full range of current issues that require the company's initiative in order to further competitive opportunities for suppliers and competitive choices for end users. The Joint Proposal's terms have gained broad support from parties who would be quick to criticize them were they lacking. To the contrary, from our detailed review, we find that the parties proposed many benefits for customers and numerous advances for competition.

Specifically, we find that the terms of the Joint Proposal serve our objective to encourage marketer participation in the competitive market. We also find that the Joint Proposal's provisions promote the sale of indigenous natural gas and thereby further the State's economic interests.

Moreover, the terms of the Joint Proposal contain ample public benefits for large- and small-volume consumers who transport their own gas supplies, and for marketers and aggregators. Customers will benefit from lower prices for NFG-provided services, and will also obtain unbundled price information that will improve their ability to make informed choices.

We find that all customers will benefit from the service quality and safety requirements contained in the Joint Proposal. Residential and other small customers will also benefit from the outreach and education programs NFG will conduct. Moreover, customers in need of assistance will benefit from the aid that the proposal makes available to them.

There are two suggestions for changes to the Joint Proposal that we will adopt. First, the Joint Proposal would apply back-out credits as of October 1, 2001. Fifty percent of the credits would go to marketers’ customers from that date to December 31, 2001. The request that marketers receive bill credits calculated from October 2001 would, by significantly reducing the Gas Restructuring Reserve, increase the risk that ratepayers could incur rate surcharges in the future to fund restructuring of the industry. In order to balance the consumers’ interest in avoiding such rate impacts and marketers’ interest in obtaining additional funds to serve customers in New York State, we will reduce the credits by one-half but not limit how marketers use such credits.

Second, the Joint Proposal suggests transferring between $2 million and $3 million from NFG’s Cost Mitigation Reserve (CMR) to its Accumulated Provision Uncollectibles Account in order to address company concerns with potential uncollectibles. NFG is adequately protected against the risk of unforeseen uncollectibles by the conditional transfer of $2 million from the CMR to NFG’s Accumulated Provision Uncollectibles Account and provision of a separate $3 million to pay arrearages of low-income customers. We, therefore, will not adopt the Joint Proposal’s transfer of an additional $1 million (for a total of $3 million) to the uncollectible reserve, if NFG's accumulated earnings for fiscal year 2002 fall below the target sharing level. If, however, NFG's accumulated earnings for the three years ending September 2003 are $1 million or more below its target sharing level, the company may request at that time that an amount up to $1 million be transferred from the CMR to the Accumulated Provision Uncollectibles Account.

In sum, we find that the proposed system modifications and the proposed rate structure changes will serve the public interest and improve the structure of the natural gas industry in the State. Accordingly, we will adopt the terms and the provisions with the above modifications of the Joint Proposal and shall require that they be put into effect.

Under the State Environmental Quality Review Act (SEQRA), adoption of the NFG Joint Proposal is an "unlisted" action requiring review. Pursuant to 6 NYCRR 617.20, NFG submitted a supplemental Environmental Assessment Form showing no adverse operational or environmental impacts will occur as a result of adoption of the actions proposed in the Joint Proposal. As the lead agency for SEQRA review, we find, in accordance with the criteria in 6 NYCRR 617.20 that the proposed actions in the Joint Proposal will not have a significant effect on the environment and our Notice of Determination of Non-Significance is attached to this order.

EMERGENCY ACTION

This order would adopt provisions that permit payment of outstanding bills for low income customers who otherwise may be subject to termination of service. In view of the fact that the opportunity to forestall termination of service may be lost if this order is not promptly adopted, we find that its immediate adoption is necessary for the preservation of the general welfare. Accordingly, the Commission takes this action on an emergency basis pursuant to §202(6) of the State Administrative Procedure Act. Compliance with the advance notice and comment requirement of §202(1) of SAPA would be contrary to the public interest.

The Commission orders:

1. The terms, conditions and provisions of the National Fuel Gas Distribution Corporation Joint Proposal, dated January 18, 2002, are adopted as modified herein and are hereby incorporated and made a part of this order.

2. This order is adopted on an emergency basis pursuant to State Administrative Procedure Act §202(6) for the reason stated herein.

3. National Fuel Gas Distribution Corporation is directed to file with the Secretary of the Commission and to serve all parties the tariff amendments necessary to implement the requirements of this order by no later than April 22, 2002, to become effective on May 1, 2002. The company is also directed to take all other action necessary to implement the requirements of this order as soon as it is reasonably possible to do so. Any comments on the proposed tariff amendments must be received at the Commission's office within ten days of service of the tariff amendments. The amendments shall not become effective on a permanent basis until approved by the Commission.

4. The requirement of the Public Service Law that newspaper publication be completed prior to the effective date of the amendments is waived, but the company is directed to file with the Commission, not later than six weeks following the effective date of the amendments, proof that a notice of the changes set forth in the amendments and their effective date has been published for four consecutive weeks in a newspaper having general circulation in the service territory of the company.

5. This proceeding is continued.

By the Commission,

(SIGNED) JANET HAND DEIXLER
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 00-G-1 858 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation

JOINT PROPOSAL TO ACHIEVE A COMPREHENSIVE RESTRUCTURING OF THE RATES AND SERVICES OF NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Dated: January 18, 2002

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 00-G-1 858 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation

JOINT PROPOSAL
TO ACI-IIEVE A
COMPREHENSIVE RESTRUCTURING
OF THE RATES AND SERVICES OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION

This Joint Proposal to Achieve a Comprehensive Restructuring of the Rates and Services of National Fuel Gas Distribution Corporation ("Comprehensive Joint Proposal") is made the 18th day of January 2002 by and among National Fuel Gas Distribution Corporation ("Distribution" or "the Company"), Staff for the Department of Public Service ("Staff'), and various parties, all of whom are listed on Appendix A (the "Parties").

I. BACKGROUND AND STATEMENT OF PUBLIC INTEREST

On October 23, 2000, the Commission approved a rate settlement covering the period extending to September 30, 2003. Case 00-G-1495, Order Establishing: Rates for Gas Service, issued October 23, 2000 ("Rate Order"). At that time, the Commission noted (at page 4) that:

> The proposed rate plan does not advance a resolution of restructuring issues, but it provides for the continuation of negotiations among the parties to the agreement, marketers on National Fuel's system, and other interested parties with a view to 'resolv[ing] all of the outstanding issues raised by the Commission in its various orders aimed at the restructuring of the natural gas industry in the State.' The proposed rate plan sets a six-month deadline for the conclusion of discussions.

Marketers* on Distribution's system and natural gas producers were invited, along with Parties to the rate settlement, to craft a settlement covering the restructuring of Distribution's rates and services. After intensive discussions, it became evident that the Parties would not be able to achieve a comprehensive restructuring settlement within the six-month deadline originally anticipated. Consequently, the Parties turned their attention to matters that could be completed in the near-term and which could enhance competition pending the negotiation of a complete restructuring agreement.

Several of the Parties thereupon executed a Joint Proposal which contained certain operational and procedural changes designed to foster competition while a more complete restructuring of Distribution's services was being discussed. Case 00-G-1 858, Order Concerning Joint Proposal (issued May 30, 2001) ("Interim Joint Proposal"). Distribution explained in its letter transmitting the Interim Joint Proposal to the Commission that:

> The Joint Proposal *is* not, and is not intended to be, a comprehensive plan for restructuring Distributions rates and services. Rather it is a proposal that addresses several items relating to Distribution's restructuring to further promote competition in the Company's service territory. As provided in the Joint Proposal, the parties have agreed to continue negotiations to address additional restructuring items.

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[1] The terms "Marketer" and "Supplier" are used interchangeably in this document without distinction and have the same meaning as defined in the Uniform Business Practices ("UBPs") (Case 98-M-1343, In the Matter of Retail Access Business Rules, Common Utility Document of Business Practices, March 10, 2000).

The Interim Joint Proposal was supported by Distribution, Staff, the Consumer Protection Board, Multiple Intervenors, and four Marketers. The Commission approved the Interim Joint Proposal finding "[i]t enhances both competition and reliability and is the next reasonable step in the restructuring of NFG's rates and practices." Interim Joint Proposal, Order at 6.

The Parties have continued to pursue negotiations since the presentation to the Commission of the Interim Joint Proposal in an attempt to produce a more complete restructuring of Distribution services. This Comprehensive Joint Proposal accomplishes this objective. For instance, the Company's transportation services have been revised such that Marketers will have more flexibility in managing their assets, will see the elimination of certain charges and have the opportunity of avoiding some current imbalance and capacity charges. Additionally, the Parties have agreed to study the feasibility of implementing a mandatory daily balancing program for larger customers, which if implemented will bring a new layer of discipline to the system which will influence reliability.

Marketers serving small aggregation customers will also have access to more locally produced gas thus avoiding some of the cost associated with deliveries from upstream interstate pipelines. This change will, in addition, give indigenous producers an opportunity to gain greater access to small volume retail markets, which may result in their obtaining a higher margin for their gas.

Customers benefit by a continuation of a Service Quality Performance Mechanism and introduction of Safety Performance Measures. Both programs are designed to insure that the Company maintains its standards of service at current levels.

Another benefit'of this Comprehensive Joint Proposal is the development of an expanded low-income program, which will be open to a greater number of customers. The current program is limited to 2,000 participants. The new program, which by necessity will be less generous on an individual basis, will be available to as many as 30,000 customers. The incremental funding for the new program will come from funds set aside in the past for future customer benefits.

This Comprehensive Joint Proposal will position the Company to meet the challenges of a changing industry and provide customers, Marketers and producers with additional means to take advantage of competitive opportunities.

II. GENERAL PROVISIONS

A. The terms and conditions of this document were negotiated pursuant to the Commission's Settlement Rule and Guidelines. See 16 NYCRR $3.9 and Opinion 92-2 (issued March 24, 1992). It is being presented to the Commission as an integrated package that reflects the agreement of the Patties to be bound by its terms to the extent permissible under the law.

B. It is the Patties' intent that the terms of this Comprehensive Joint Proposal not be separately interpreted and applied. To that end, it is understood that each provision of this Comprehensive Joint Proposal was given in consideration and support of other provisions, and expressly conditioned upon the acceptance of the Comprehensive Joint Proposal in its entirety by the Commission. In the event or to the extent that the Commission does not adopt this Comprehensive Joint Proposal according to its terms, the Parties to this Comprehensive Joint Proposal shall be free to pursue their respective positions in this proceeding and any remedies at law or in equity without prejudice upon reasonable notice to the other Parties.

c. The terms and conditions of the agreements contained in the Comprehensive Joint Proposal apply solely to, and are binding on each Party only in the context of, the purposes of the Comprehensive Joint Proposal. None of the terms and provisions contained in the Comprehensive Joint Proposal, nor any methodology or principle utilized herein, nor any of the positions taken herein by any Party may be referred to, cited or relied upon by any other Party in any fashion as precedent or in any other proceeding before the Commission, or any other regulatory agency, or before any court of law for any purpose except in furtherance of the purposes of the Comprehensive Joint Proposal.

D. The Parties agree to submit this Comprehensive Joint Proposal to the Commission along with a request that the Commission adopt its terms as set forth herein.

E. The Parties recognize that certain provisions of this Comprehensive Joint Proposal require that actions be taken in the future to effectuate it fully. Accordingly, the Parties agree to cooperate with each other in good faith in taking such actions.

F. Except as provided in paragraph B. above, the Parties agree that, within three business days following the Commission's order approving this Comprehensive Joint Proposal, Distribution will file tariffs and modify its Procedures Manual[2] in a manner consistent with the terms of this Comprehensive Joint Proposal.

2 Gas Transportation Operations Procedures Manual ("Procedures Manual"). For purposes of convenience, words and phrases used in this Comprehensive Joint Proposal shall have the same meaning as identical words and phrases that appear in Distribution's tariff. To aid readability of this document, however, those words and phrases will occasionally be defined herein. In addition, a table of acronyms used in this document is attached preceding the Appendices.

G. This Comprehensive Joint Proposal provides restructured rates and services through the fiscal year ending September 30, 2003. For purposes of convenience and clarity, the fiscal year ending September 30, 2003 shall be the Third Fiscal Year corresponding to the third rate year of the Rate Order. Likewise, the Second Fiscal Year herein shall correspond to the second rate year of the Rate Order.

H. In the event of any disagreement over the interpretation of this Comprehensive Joint Proposal or implementation of any of the provisions of this Comprehensive Joint Proposal, which cannot be resolved informally among the Parties, such disagreement shall be resolved in the following manner: (a) the Parties may convene a conference and in good faith attempt to resolve any such disagreement; and (b) any such Party may petition the Commission for resolution of the disputed matter which resolution shall be upon notice, with an opportunity to comment. No Party waives the opportunity to seek an evidentiary hearing.

III. CHANGES TO TRANSPORTATION SERVICES

Distribution provides transportation (or delivery) service to customers who arrange for their own gas supply (i.e. “stand-alone” or “direct” transporters) and for aggregated customers on behalf of Marketers and other entities under the Company’s aggregation service. Indeed, on an annual basis nearly one-third of the Company’s throughput is composed of transported, customer-owned gas. Included with transportation and aggregation services are ancillary services and rules designed to insure that gas flows, as needed, from points upstream of the Company’s City Gate to the retail customer. These services and rules, including balancing requirements, imbalance services, storage services and rules, pipeline capacity and standby service standards, influence retail service reliability and costs. Thus they are an important component of Distribution's and Marketers' service rights and obligations. In this Comprehensive Joint Proposal, the Parties have agreed to make changes to transportation services that, if adopted, will help streamline operations for the benefit of Marketers and retail customers, without compromising Distribution's obligation and ability to maintain reliable service.

The Company's current provisions governing storage requirements, balancing, pricing of imbalance and storage inventory transfer services, cash-out provisions and capacity allocations will be modified as stated below. Currently the Company's tariff provides that for customer conversions (or "enrollments") that occur after April 1 of each year, gas purchased and injected into storage by the Company on behalf of the customers is transferred, with the customer, to the Marketer's account. The price charged by the Company for such transferred supplies is above the market price for gas, and proceeds are flowed through the gas adjustment clause ("GAC"). In order to bring the Company's storage gas prices closer to market levels, the Parties have adopted the pricing methodology described below.

Other changes include modifications in storage gas inventory targets and the elimination of imbalance trading fees. The Parties have also agreed to modify balancing requirements and establish a protocol to allow Marketers to acquire intermediate capacity into certain receipt points on Distribution's system. These and other recommended changes (1) will promote the Commission's competition initiatives; (2) are consistent with the Commission's restructuring mandate that "no compromise in system reliability will be permitted" and; (3) will produce just and reasonable rates charged by Distribution.

A. Capacity Options and Storage Pricing

The Parties agree that the Company's Supplier Transportation, Balancing and Aggregation ("STBA") service[3] will be modified. STBA service is Distribution's standard aggregation service for Marketers. Designed pursuant to (and approved under) the Commission's various restructuring orders, STBA service includes delivery (or transportation) service from the Company's City Gate to the retail customer, City Gate and retail balancing services intended to accommodate aggregated supplies, and provisions for upstream storage and transmission capacity required to maintain reliability, among other things. Pursuant to the Commission's billing orders, STBA service also allows Marketers the option of performing their own customer billing or purchasing the Company's retail billing service.

STBA service will be modified as follows:

1. Simplification of Marketer Capacity Options - Under aggregation service, Marketers are responsible for acquiring pipeline and storage capacity upstream of the utility company adequate to serve customers included in the Marketers' aggregated groups. Currently the Company's STBA service tariff provides three options for Marketers to fulfill these requirements: Under Options 1 and 2[4] Marketers, in order to meet the capacity requirements of their aggregation group, are required to take assignment of capacity which Distribution has with National Fuel Gas Supply Corporation ("Supply Corporation")[5] and with pipelines upstream of Supply Corporation.

[3] Gas Transportation Tariff of Distribution, P.S.C. No. 8 - GAS, Service Classification ("SC") 19.

[4] SC 19 Sections 2.a. and 2.b. (Leaf 26 1).

[5] Supply Corporation is an interstate pipeline company regulated by the Federal Energy Regulatory Commission. It is a subsidiary of National Fuel Gas Company ("National"), Distribution's parent.

Option 3[6] continues to require the assignment of capacity on Supply Corporation but permits Marketers to secure their own capacity upstream of Supply Corporation. The Parties have agreed that the Company will simplify its existing aggregation service by eliminating Options 1 and 2[7] since the Commission permits Marketers to secure their own upstream capacity. Therefore, upon approval of the Comprehensive Joint Proposal, all Marketers using STBA service will meet capacity requirements according to the current tariff provisions of Option 3.

2. With respect to the current Option 3 intermediate capacity requirement, the Parties agree that the Company will perform a study of its intermediate capacity needs for the purpose of (I) determining the most economic and reliable "mix" of capacity options on Supply Corporation; and (2) establishing terms and conditions of service under which Marketers may supply their own intermediate capacity from Supply Corporation or a comparable alternative to replace capacity which would otherwise be retained by Distribution. The study will be distributed no later than February 11, 2002, which is prior to the date that Distribution is required to provide notice to Supply Corporation as to whether it intends to maintain or modify its current contract. That date is April 1, 2002. The Parties will convene 15 days after the study has been distributed.

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6 SC 19 Section 2.c. (Leaf 266.1).

7 Similarly, the upstream pipeline capacity tariff provisions for stand-alone transportation service (under SC 13M and SC 13D) shall be removed.

3. The Company will delete the Initial Assignment of the ESS[8] Storage Capacity option (SC 19 Section 2.c.(2)(ii)). This provision will be eliminated to accommodate the changes in the Company's proposed storage gas sales and purchase prices that are described below.

4. The Company will utilize a "Base Storage Transfer Rate" for calculating the price of all gas in storage transferred to Suppliers. The Base Storage Transfer Rate will equal the weighted average commodity cost of gas injected into storage during the injection months (April through October). For example, for storage gas supplies transferred during the month of May 2002, the Base Storage Transfer Rate will equal the commodity cost of gas injected into storage during the month of April 2002. For storage gas supplies transferred in the month of October 2002, the Base Storage Transfer Rate will equal the average commodity cost of gas injected into storage during the months of April 2002 through September 2002. For the months of November 2002 through April 2003, the Base Storage Transfer Rate will equal the commodity cost of gas injected into storage during the months of April 2002 through October 2002. The Company will revise the sale of gas in storage language found in the SC 19 tariff on Leaf 266.2 (or its successor) to read as follows:

> Storage Gas Transfer Rate shall be the sum of (1) the Base Storage Transfer Rate, plus (2) the Demand Transfer Recovery Rate ("DTR rate").

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[8] "Enhanced Storage Service" ("ESS") is a service provided by Supply Corporation that utilizes storage in conjunction with Supply Corporation's Enhanced Firm Transportation ("EFT") to automatically (i.e. without notice) accommodate "swings" in demand that occur due to weather changes or other variances around the expected (and scheduled) level of consumption for the account.

The Company will utilize the Base Storage Transfer Rate for the price of gas in storage that it purchases from Suppliers. The Company will revise the purchase of gas in storage language found in the SC 19 tariff on Leaf 266.3 (or its successor) to read as follows:

> Voluntary Return of Customers to the Company:
>
> If a Supplier that has received storage capacity in the prior year returns customers to the Company or has a reduced storage obligation due to reductions in customer usage, the Supplier will return the storage capacity associated with the reductions in customer usage to the Company and transfer the associated storage gas to the Company at the Base Storage Transfer Rate. The Supplier shall be responsible for all taxes and pipeline fees associated with moving or transferring the storage gas to the Company. If the quantity of capacity associated with returned customers does not decrease a Supplier's capacity allocation by at least 2% over the previous allocation, then the capacity allocation will be set at the previous month's quantity.
>
> Return Due to Termination of STBA Agreement:
>
> If a Supplier's STBA Agreement is canceled or terminated, the Supplier will return the storage capacity to the Company and transfer the storage gas to the Company at the Base Storage Transfer Rate. The Supplier shall be responsible for all taxes and pipeline fees associated with moving or transferring the storage gas to the Company. The Supplier also authorizes Company to act on Supplier's behalf to confirm all nominations necessary to give effect to this clause.

The Base Storage Transfer Rate will be calculated monthly and filed with the Commission as part of the Company's monthly GAC filing.

5. Suppliers are currently required to meet end-of-the-month ("EOM") inventory requirements from September 30 through March 15. To allow the

Company to better manage storage performance, the Parties agree that this requirement will commence each year beginning on May 3 1.

The following table describes the Company's inventory requirements for the start-of-the-month ("SOM") (see paragraph 6 below) and the EOM:

Month	Enrollment SOM Target	EOM Target
April	0.00%	0.00%
May	14.00%	13.00%
June	29.00%	32.00%
July	43.00%	50.00%
August	57.00%	68.00%
September	71.00%	86.00%
October	86.00%	98.00%
November	100.00%	92.00%
December	80.00%	80.00%
January	60.00%	50.00%
February	40.00%	22.00%
March	20.00%	0.00%
15-March		17.00%

Suppliers must be within 2% of the EOM target percentage to satisfy the EOM percentage level requirement. Additionally, the Company will normalize winter EOM inventory percentages to accommodate colder-then-normal ("CTN") weather. The following table identifies the incremental flexibility for CTN weather:

Month	Month 15% CTN	Month 20% CTN
November	2.00%	3.00%
December	1.50%	2.00%
January	1.00%	1.50%
February	0.50%	1.00%
15-March	0.00%	0.00%

For example, if December is at least 20% CTN, then the Supplier would be required to meet an EOM target of 76% (80% - 2% - 2%).

6. The Company will not be obligated to sell gas to Suppliers that fail to meet the EOM inventory requirements or for transportation customers that switch Marketers. Instead, the following provisions shall apply:

When Suppliers enroll customers after the capacity allocation effective for April 1, they will be allocated incremental storage capacity. If the quantity of incremental capacity does not increase a Supplier's total capacity allocation by at least 2%, then the capacity allocation will be unchanged. The incremental capacity is assigned at the SOM during which the Supplier will begin to serve the customer. For converting sales customers enrolled after April 1, Suppliers receive the capacity together with associated storage gas inventory when they enroll sales customers through a mandatory transfer and purchase of gas in storage from the Company. When Suppliers enroll existing transportation customers, they are responsible for "filling" (i.e. injecting) the storage capacity themselves but will not have an explicit SOM inventory requirement. Suppliers will not have an option to purchase additional inventory from the Company beyond what is initially transferred to Suppliers from the Company.

7. When a Supplier fails to meet an EOM percentage level ("target"), the Supplier shall have five days to correct the resulting inventory deficiency. The Company will report a Supplier's initial and final (i.e. five days after the initial deficiency is determined) deficiency to Staff and the Supplier. If after five days the Supplier fails to meet the EOM target, Supplier's STBA Agreement shall be in default and the Supplier will be subject to the involuntary discontinuance of service procedures under the UBPs.

In addition, the Company shall have the right to terminate service to any Supplier that fails to meet its EOM target more than twice during the previous 12-month period. Upon termination, the Supplier shall be prohibited from receiving service under STBA service for a period of three months.

8. When a Supplier returns customers to the Company, the Supplier will be required to sell, and the Company will be required to purchase, inventory (or volume) according to the pricing methodologies set forth above and in amounts sufficient to serve customers based upon the following SOM percentages for the months during which customers are returned.

Return Month	Inventory Return Requirement
April	0.00%
May	14.00%
June	29.00%
July	43.00%
August	57.00%
September	71.00%
October	86.00%
November	100.00%
December	80.00%
January	60.00%
February	40.00%
March	20.00%

9. Whether a Supplier returns customers to the Company or loses customers to another Supplier, if the quantity of capacity associated with such customers does not decrease a Supplier's capacity requirement by at least 2% (on a calendar month basis), then the existing capacity allocation will remain unchanged.

B. Imbalance Trading Fees

The Company will eliminate the $0.05 Exchange Fee in the STBA and CBA[9] tariffs. The Company will require that the net effect of all trades conducted during a monthly trading period improve each STBA Supplier's or CBA Aggregator's (hereinafter called the "Imbalance Trading Party") relative imbalance position. That is, the net result of an Imbalance Trading Party's imbalance trading activity will achieve an imbalance position closer to zero, i.e. the absolute value of the volume owed to the Company (negative position) or owed to the Imbalance Trading Party (positive position) is smaller after all trades have been completed. Upon implementation of a non-STBA Daily Balancing Program or following September 30, 2003, trades will be processed only between Imbalance Trading Parties with like imbalances (i.e. stand-alone daily-metered transportation with stand-alone daily-metered transportation, stand-alone monthly-metered transportation with stand-alone monthly-metered transportation, and STBA transportation with STBA transportation). Prior to this date, CBA and STBA transportation imbalances may be traded interchangeably. If, at the conclusion of the trading period, an Imbalance Trading Party's positive position is larger than its position at the initiation of trading, the Company will charge a rate equal to the interruptible storage rate (on a Mcf basis), which is charged by Supply Corporation for each Mcf in excess of the initial imbalance level. In no event will the Company process trades that result in a larger negative position for the STBA/CBA Supplier.

[9] Customer Balancing and Aggregation ("CBA") Service, SC 18 (Leaf 259). CBA Service is an imbalance "netting" service that is designed to provide an additional capacity and nomination management tool for Marketers serving traditional stand-alone (i.e. non-STBA) transportation customers.

C. Cash-Out of Post Trade Overdeliveries

The Company will not automatically cash-out post trade positive imbalance positions. The Company will require STBA Suppliers to operate within the Aggregated Daily Delivery Quantity ("ADDQ") tolerance band, (e.g. during non-OF0 periods daily deliveries should be scheduled within 95% - 105% of the ADDQ). The Supplier will have the opportunity, however, to elect that the Company cash-out its imbalance at the end of the trading period. The Supplier must nominate the cash-out choice each month if it desires month-end imbalance positions to be cashed-out. The Company may elect not to satisfy cash-out purchase requests or cash-out sales requests during a month. The procedure that will be applied under this provision will be as follows:

1. At the conclusion of the trading period, a final imbalance position will be calculated for each trading party (Marketer) and will be made available via the Company's web-based transportation scheduling system (called "TSS").

2. On the business day following conclusion of the trading period, a Marketer electing a cash-out must place a nomination within TSS to request the cash-out.

3. Should Distribution schedule a cash-out, a revised final imbalance position will be calculated for each affected trading party (Marketer) and will be posted on TSS.

4. If it intends to decline cash-out requests, Distribution will provide notice on its web-site prior to the initiation of the trading period.

D. Resolving CBA Deficiency Imbalances Through an EOM Transfer from ESS Contracts

Most of the Company's largest customers utilize direct transportation service whereby the customer is responsible for nominations of gas supply as well as the consequences of any imbalances between the gas supply that the customer uses in any month and the gas supply that a customer has caused to be delivered to the system for their use during the month. Many of these large volume transportation customers have entered into agency arrangements with Marketers whereby the Marketer manages the natural gas delivery obligations on behalf of the customer. CBA Service (described supra at page 15) permits a customer or a Marketer to combine the imbalance positions of any number of customers that voluntarily agree to join a CBA group. The CBA service permits end of the month burner tip surplus imbalances amounts for customers within the group to be combined with burner tip deficiency imbalances for customers within the group to determine a single end of the month burner tip deficiency or surplus for the month.

Under the current CBA tariff, end of the month deficiency imbalances result in a charge for the amount of deficiency imbalance billed at the Company's Deficiency Imbalance Sales Service Rate (SC 11) for the month."

In this agreement, the Parties have agreed to permit a Marketer or customer that has entered into a CBA service agreement with the Company to reduce or eliminate a month-end CBA group burner tip deficiency imbalance by transferring gas from its ESS contract account to the Company's ESS contract account, provided that the Marketer or customer has met its ESS end of the month target during the month of such deficiency and the transfer transaction results in an inventory balance above the end of the month target. Further, the Marketer or customer that has entered into the CBA agreement with

[10] As an alternative to the Deficiency Imbalance Sales Service, a Marketer or a customer may enter into a standby contract with the Company. The deficiency imbalance may be billed under the standby rate schedule (SC 12). No Marketer or customer receiving CBA service, however, has entered into any standby contract to date.

the Company will be responsible for reimbursing the Company for any Supply Corporation trading fees as well as for the applicable shrinkage and commodity transportation and storage withdrawal costs associated with the transfer of gas to the Company's ESS storage account.

E. Acknowledgement of the Delivery Management Responsibility of Suppliers under the Company's Aggregation Transportation Service

The Company provides transportation aggregation service under its STBA service. STBA service is used by Suppliers to provide service predominantly to small volume customers. Under STBA service the Company provides the Supplier with an ADDQ each day. Suppliers must deliver to the Company's City Gate natural gas supplies within a tolerance band around the ADDQ amount. The Company manages the additional natural gas requirements of its system (including the requirements of the Company's sales customers) based on the ADDQ provided to Suppliers. Suppliers have the flexibility to deliver gas supplies to the Company's system from a variety of sources including ESS on Supply Corporation released to the Supplier by the Company. The Parties also acknowledge that the balancing of any Supplier ADDQ shortfall from the Supplier's ESS contract will not be permitted.[11] Such balancing would occur after the fact and implies an unexpected daily delivery shortfall on the part of the Supplier. If Suppliers wish to utilize ESS to meet their ADDQ requirements they should schedule such deliveries in advance or through intra-day nominations from their ESS and EFT contracts.

[11] The Company agrees to include consideration of this issue in the study described *supra* in Section III.A.2.

F. Capacity Requirements for Post-Aggregation Customers

The Company will eliminate the mandatory capacity assignment provision for post May 1996 non-critical service customers with an annual consumption greater than 5,000 Mcf/year. The Company will establish a separate incremental GAC rate for any stand-alone transportation customers returning to Company-provided firm sales service.

Existing transportation customers with annual consumption less than 5,000 Mcf/year that are currently "capacity exempt" (i.e. not securing firm upstream capacity according to the mandatory capacity requirement) will be offered a choice of one of the following options:

1. Capacity as required under SC 19 (capacity exemption ends).
2. Return to Company firm sales service for 12 months (capacity exemption ends).
3. Continue capacity exempt transportation with right to return to bundled incremental GAC sales service (i.e. waive right to return to standard tariff rate).

These customers will be required to sign an affidavit acknowledging that the Company is not required to provide firm, average cost-based sales service to the customer. Notice explaining this change in the tariff will be provided to the transportation customers and Marketers. In drafting an appropriate letter to serve as notice to the Marketers' customers, the Company will consult with interested Marketers, including but not limited to the Marketer signatories to this Comprehensive Joint Proposal. This provision in no way affects the current allowance of stand-alone transportation service for the class of customers consuming 3,500 to 4,999 Mcf annually. This class, however, remains subject to mandatory capacity requirement applicable to customers converting to transportation service after May 1996.

G. Surcharge Provisions for Unauthorized Periods

A $7.00 per Mcf additional charge for Deficiency Imbalance Sales Service (SC 11) during "Unauthorized Periods"[12] shall be applied to deficiency imbalance volumes exceeding 5% of consumption *before trading,* i.e., the $7.00 per Mcf unauthorized deficiency imbalance surcharge may not be eliminated by Suppliers through imbalance trading. The surcharge, however, will be imposed only once per deficiency, i.e., not once on a pre-trading deficiency and again on a remaining post-trading deficiency. The Company agrees to modify its Procedures Manual to provide that notice of an Unauthorized Period will be issued in the same manner as is provided for System Maintenance Orders and Operational Flow Orders.

H. "First Come First Served" Marketer Receipt Capacity

This Section is designed to provide an opportunity for Marketers to align intermediate capacity primary receipt points with primary delivery points on upstream pipeline capacity feeding into the intermediate capacity. Marketers must satisfy upstream capacity requirements for a five-month period effective November 1 of each year. The Parties agree that Distribution will likely need to maintain adequate receipt capacity due to its status as system operator and a regulated gas corporation providing sales and delivery service. In an effort, however, to provide Marketers with an opportunity to gain access to the receipt points described above, the Parties agree that the following procedure will be observed: Starting March 1 each year and concluding with submission

[12] An "Unauthorized Period" is a period during which SC 11 Interruptible Sales Service is unavailable on an authorized basis because service to customers under firm sales classifications may be jeopardized or impaired. During an Unauthorized Period, a surcharge is applied to the rate that would be charged for SC 11 gas during an authorized period.

of the April 1 Marketer Capacity Plan[13], Distribution will hold an Open Season during which Marketers may submit requests for EFT capacity to serve their customers with their desired Supply Corporation receipt points and quantities.

1. Distribution will attempt, to the extent operationally feasible; to accommodate Supplier requests by seeking to transfer its primary EFT receipt capacity to those points desired by Suppliers.

2. Upon conclusion of the Open Season, Supplier requests submitted on business days during normal business hours between April 1 and the July 1 capacity deadline will be processed on a first come first served basis (i.e. priority will be given to requests with the earlier calendar date). Open Season requests will have priority over requests submitted between April 1 and June 30.

3. Where a tie between two or more requests exists, priority will be given to multi-year contracts based upon the length of the upstream capacity contract and Right of First Refusal rights. Otherwise, available receipt point capacity will be allocated in proportion to the receipt point capacity requested.

4. Should a Supplier fail to meet the July 1 capacity deadline, it forfeits its place in the queue.

5. At the July 1 capacity deadline, should a Supplier demonstrate a multi-year contract at a receipt point, Distribution, to the extent operationally and contractually feasible, will process the Supplier's receipt point capacity ahead of any request for receipt capacity received during the following year's Open Season or during the subsequent April 1 to July 1 period.

6. Distribution will not unreasonably reject any receipt point request that can reasonably be supported by load growth expected between the request submission date and November 1.

13 See Procedures Manual (version I. 13) at p. 48, subparagraph 4.c. 1.

7. Assignment of receipt point capacity at a given point does not guarantee that incremental capacity will be made available to a Supplier at that point nor does it confer priority over another Supplier seeking capacity at that point.

I. Stranded Capacity Cost Charges

The Parties agree that the Company will modify its current transition surcharge to recover the cost of capacity stranded as a result of customers migrating from the Company's sales service to transportation service. The revised stranded capacity cost calculation and a detailed description of the recovery mechanism are set forth in Appendix B. In addition to the transition surcharge for upstream capacity, the Company shall implement a transition surcharge for a portion of intermediate pipeline capacity (EFT capacity on Supply Corporation) that is displaced by alternatives, including local production, gathering facilities, inter- or intrastate pipelines, qualified to displace EFT capacity on Supply Corporation. The stranded intermediate capacity cost calculation and a detailed description of the recovery mechanism are set forth in Appendix C. The mechanism will be utilized only upon the calculated occurrence of a recoverable cost. Otherwise, it will be set at zero.

J. Marketer Ombudsman and Marketer Satisfaction Survey

The Company will designate an officer-level representative to address Marketers' unresolved concerns and to serve as a liaison between Marketers and the Company within 30 days after the Commission issues an order approving this Comprehensive Joint Proposal. Marketers will be provided with the Ombudsman's telephone number and the Ombudsman will be available directly to Marketers.

The Parties also agree that the Company will implement a Marketer satisfaction survey to be developed jointly by the Company and Staff with input by interested Parties.

The survey administered by Staff (or an independent third party) would serve as an evaluation mechanism to measure the Marketers' level of satisfaction with the Company. After the first year of measuring Marketer satisfaction results, the satisfaction survey may be revisited to incorporate any modifications, additions or deletions agreed to by Distribution, Staff and the interested Parties. The annual survey will start on April 30, 2002 and each subsequent year during the term of this Comprehensive Joint Proposal. In the first year, information collected will be used to establish a base line. The Company will provide a written report to Staff on its treatment of the recommendations or concerns presented by the survey respondents within 60 days after the completion of the survey. With respect to disputes with changes to the Marketer satisfaction survey instrument, any unresolved disputes among the Parties may be submitted to the Commission for resolution.

K. Transportation Balancing Changes

The Interim Joint Proposal modified the Company's service classification for monthly-metered transportation service (SC 13M) to establish a tolerance band for daily deliveries of natural gas to the City Gate. The modification contains a "sunset" provision under which the tolerance band terminates automatically on September 30, 2003. Effective October 1, 2003 monthly-metered transportation customers (or their Marketer-agents) will be required to deliver a minimum of 90%, and no more than 110% of their daily average normalized consumption for the month. [14] Additionally, the Parties agree to study whether daily balancing for transportation

[14] As provided in the Procedures Manual, the Supplier may request a change to the daily delivery quantity (or ADDQ) if justified by operational circumstances.

customers is appropriate on Distribution's system. The study shall pursue two parallel tracks contemporaneously:

> **<u>Track One</u>** will examine the appropriate level of balancing rates for all transportation services, both monthly-metered and daily-metered. Distribution will distribute an updated study of the assets used to provide balancing within 15 days following the date of the order approving this Joint Proposal. The Company will schedule a meeting to be held 30 days thereafter. The purpose of the meeting will be to set parameters for Track One of the study. The Company in conjunction with interested Parties will develop the agenda for the meeting. Questions or discovery requests shall be responded to promptly.

> **<u>Track Two</u>** will identify computer hardware/software, metering needs, communication equipment and other facilities and procedures required for implementing daily metering service. Cost estimates and lead-time for equipment, installation and customer/Marketer-agent education shall be provided with a critical path established for an October 1, 2003 in service date.

There will be no changes in current balancing charges during the term of the current rate agreement. If the Parties cannot reach an agreement on a program for daily balancing for transportation customers or an appropriate set of rates for balancing services by October 1, 2002, then they are free to pursue their positions in subsequent proceedings. Distribution agrees not to claim settlement confidentiality relating to the study and related materials which have been provided to the Parties. Additionally, the study and related materials may be used in this proceeding and other proceedings related to balancing by any Party without limitation.

IV. BACKOUT CREDITS

"Backout credits" are credits, applied to Marketer or customer bills, intended to reflect costs avoided by the utility when services are provided by the Marketer. In generic proceedings involving billing and electric metering, the Commission adopted a backout credit methodology that used embedded costs as a proxy for long-run avoided costs ("Billing Credit"). In this proceeding, a Competition Backout Credit ("CBoC") has been developed for Marketer-provided functions other than billing (and associated billing functions) such as gas supply purchasing and administration and certain customer care elements, among other things. These services are required by the Commission to be provided by the Company, the cost of which is reflected in base rates. The Parties reached agreement on a CBoC that was developed using embedded costs as a guide. The Parties further agree that if reduced Marketer costs will promote Marketer participation, then the CBoC, by reducing Marketer costs, will help to achieve that goal.

A. Competition Backout Credit

For the period beginning October 1,200 1 and ending the earlier of September 30, 2003 or upon implementation of unbundled rates as more fully described in Section XIV, CBoCs are established as follows:

- For Marketers performing the billing function under Distribution's approved single retailer model, [15] - $3.30 per customer/month.
- For Marketers using Distribution's TIBS billing service - $1.60 per customer/month.

From October 1, 2001 to the date when tariff sheets incorporating the prospective CBoC billings or unbundled rates as described in Section XIV, whichever is sooner, are effective, Marketers will receive a lump-sum credit equal to $3.30 per customer receiving the Marketer's single-retailer billing service or $1.60 per customer who received TIBS

[15] The Commission has previously found that Distribution offers a "single retailer" model. Case 99-M-063 1, Customer Billing Arrangements, Order Establishing Uniform Retail Access Billing and Payment Processing Practices (issued May 18,200 1) at 6, n. 11.

service, for each bill issued (not to exceed one per month). To receive such payments Marketers have to affirm to Staff of the Office of Gas and Water (with a copy of such affirmation served on the Company) that at least 50% of the lump-sum payment related to the period October 1, 2001 to December 3 1, 2001 will be credited in an equitable manner, taking into account the cost of implementation, to Marketer's active customers as of January 1, 2002. Beginning with the commencement of the CBoCs described above, the following distribution to STBA bills will apply.

- For Marketers performing the billing function under Distribution's approved single retailer model, a \$3.30 credit per customer shall be applied to the Company's bill to the Marketers;
- For Marketers using Distribution's TIBS (or successor) billing service[16], a \$1.60 credit per customer shall be applied to the utility's portion of the customer bill calculated each month.

B. <u>CBoC Funding Recovery</u>

The Company shall be kept whole on a current basis for revenue deficiencies ("CBoC costs") resulting from the CBoCs. Toward that end, CBoC costs shall be the sum of CBOC credits provided from October 1, 2001 through the term of this agreement and shall be recovered through a mechanism funded by (1) Gas Restructuring Reserve ("GRR") funds (as described in Section VI) and upon depletion of such GRR funds, (2) a surcharge applied to the delivery charge for all customers except customers receiving service at negotiated rates.

[16] Distribution's current utility-combined billing service, Temporary Interim Billing Service ("TIBS") will be superseded by Customer Aggregation Billing Service ("CABS") upon approval by the Commission in the billing proceeding, Case 99-M-063 1.

C. Billing Backout Credit

The Parties agree that the Company may petition the Commission for permission to recover net revenue deficiencies experienced by the Company resulting from the backout credit established for billing service, pursuant to the Commission's Billing Orders, Case 99-M-063 1 ,[17] (currently $0.80/avoided bill) from *its* inception on June 1, 2001. If the Commission approves Distribution's petition to recover net revenue deficiencies resulting from the billing backout credit, then the Parties agree that it is appropriate for such net revenue deficiencies to be recovered, on a current basis, through the CBoC mechanism described above (including, to the extent necessary, the CBoC surcharge mechanism). As an offset to billing and other qualified costs/expenses, the GRR shall include revenues received from the Company's TIBS billing service. See Appendix D (relating to the Cost Mitigation Reserve ("CMR") and GRR).

V. PRODUCER ISSUES

Approximately 5% of the gas flowing on Distribution's system comes from production within its New York franchise area. The Company has allowed the use of local production to replace upstream pipeline capacity for aggregation service so long as the local production volumes could be monitored telemetrically like pipeline-delivered gas; i.e. on a real-time basis. Pipeline-quality metering, however, can be relatively costly for local production, especially when well volumes are low. To promote the use of local production without imposing the daily metering requirement, the Parties agree that 60%

[17] Case 99-M-063 1, Customer Billing Arrangements, Order Providing for Customer Choice of Billing Entity (issued March 22, 2000) ("Billing Order"); Order Establishing Uniform Retail Access Billing and Payment Processing Practices (issued May 18, 2001).

of the projected monthly volume of this production will be accepted without pipeline-quality metering to replace upstream pipeline capacity otherwise required for aggregation service. An Interconnection Agreement between producers and the Company has been developed which sets forth the standards for gas conditioning and delivery into the Distribution system, necessary to assure the gas is compatible with other gas on the system in terms of both quality and reliability.

A. Producer Interconnection Agreement

The Interconnection Agreement, attached hereto as Appendix E, shall be incorporated in the Company's Procedures Manual within 30 days of an order approving this Comprehensive Joint Proposal.[18] Distribution shall provide open access on its system to accept local production pursuant to, and in compliance with, an executed Interconnection Agreement. Upon receipt of the standard-form Interconnection Agreement, producers shall have 30 days to execute and return the document to the Company. In addition, the Parties agree that the Company will adopt the Interconnection Policy and Procedures set forth in Appendix F.

B. Receipt Facilitv Maintenance Fee

The Parties agree that Distribution will charge a fee for inspection and maintenance of production meters including related facilities (herein described as "meter"). Such fee also provides for related data gathering and administration. Accordingly, there shall be a monthly Receipt Facility Maintenance Fee, set forth in the tariff and described in the Interconnection Agreement, of $40.00 per meter. In addition,

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18 Inasmuch as the Commission will upon approval of this Comprehensive Joint Proposal have adopted the Interconnection Agreement (as an Appendix), there is no need for the 30-day notice requirement for changes to the Procedures Manual. Thus the Parties request that the 30-day notice requirement be waived.

Distribution's tariff shall be further modified to authorize the Company to assess an additional "re-test" charge of $150 per meter for each additional service call up to three within the last 24-month period. For additional service calls during the same period, the charge shall be $250 for each meter serviced. For service calls related to re-testing a meter that was turned off due to a failure to meet gas quality requirements, Distribution will waive such fees if it fails to re-test such meters by close of business on the fifth working day after confirmed notice from a producer that its meter is ready for re-test and turn-on. For meters that require an excess of five service calls during the same 24-month period, Distribution shall have the right to shut-in the meter permanently.

C. Gas Qualitv: BTU Content

The Interconnection Agreement shall establish a "heat" content range of 967 to 1100 British Thermal Units ("BTU") for receipt of supplies into Distribution's system. Distribution may also accept any supplies that, as measured by Distribution or Distribution's agent, bear a heat content outside the acceptable range.

D. Waiver of STBA Telemetric Measurement Reauirement

The Interim Joint Proposal provided that a "joint study" be performed to determine the delivery performance of local production for purposes of meeting the upstream capacity requirement applicable to service under SC 19 (STBA). To receive STBA service, Suppliers are required to secure intermediate pipeline capacity as described in the tariff together with "primary firm capacity upstream of [the intermediate capacity]" for the five winter months beginning in November of each year. SC 19 also authorizes Suppliers to replace the upstream capacity requirement with local production with "daily telemetric measurement equipment installed at Supplier's expense."

Although the joint study was not completed, the Parties agree that the telemetric equipment requirement should be waived for local production (delivered into Distribution through orifice and rotary meters). Where telemetric equipment is not available, 60% of historical average daily production for the month shall be made avaiiable to meet the percentage of extreme day requirements otherwise served by capacity upstream of the intermediate capacity. Where Distribution has more current information concerning production deliverability[19], it may apply the 60% factor to the resulting projection of average daily production for the month. While 60% of historical daily average production shall be made available (except as noted above), gas must be scheduled on a daily basis to be delivered to an STBA pool in order for such volumes to be allocated that day. Any volumes under 60% not scheduled for delivery to an STBA pool may be scheduled for delivery to customers receiving service under other transportation classifications, as appropriate to the terms and conditions of the applicable tariff. In all cases, gas scheduled to STBA pools will be allocated ahead of gas scheduled to other transportation customers. In no event shall volumes under the 60% level that are not scheduled for delivery to STBA pools be made available as a carryover for nominations to STBA pools on a subsequent day during the month. Distribution, Staff and other interested Parties (hereinafter the "Producer Committee")[20] shall continue discussions toward completing the joint study and, to the extent the Producer Committee agrees that the results of the joint study support an adjustment to the percentage established for waiver of the telemetric requirement, such adjustment shall be made and entered in the

19 For example, a gathering system operator may inform Distribution that wells may have been added to the gathering system or are shut-in. In either case, the volume of gas expected to flow may be different than the historical average daily production.

20 All Parties are invited to join the Producer Committee and participate in its conferences.

Procedures Manual (pursuant to the applicable procedure). The Producer Committee agrees to resume discussions on this matter beginning no later than 90 days following the date of the order addressing this Comprehensive Joint Proposal. In the event the Producer Committee is at an impasse, any Party may request that Staff or the Department of Public Service Office of Hearings and Dispute Resolution facilitate further negotiations in order to resolve any disputes. Nothing herein is intended to limit or deny any Party's right to petition the Commission for relief according to applicable laws and procedures.

VI. ESTABLISHMENT AND USE OF POOLS

In previous cases, the Company established various deferral accounts to fund future expenses and costs. The Cost Mitigation Reserve ("CMR") was established to defray specific cost increases, which included site investigation and remediation costs, pension and OPEB expense and IRS audit expense. The GRR was established to defray expenses and costs arising from the Commission's restructuring of the gas industry. The Parties agree that the Company will continue these deferral accounts (Appendix D, I.A.) under the Comprehensive Joint Proposal within the existing framework of the CMR and the GRR.

A. CMR Expenses/Costs

The CMR shall be continued, albeit in different form, during the term of this Comprehensive Joint Proposal. The accounting treatment for the CMR is detailed in Appendix D.

1. Funding for the CMR consists of the following items:

   a. Capacity Release Credits and Off-System Sales. The Parties anticipate that the Company will achieve savings from interstate pipeline and storage capacity releases and off-system sales that cannot be quantified in advance. Each rate year, the first $1 miliion of such savings and revenues will be applied to the CMR. Each rate year, 85% of any remaining capacity release savings and/or net revenue from off-system shall be accumulated. Such accumulated amounts shall be conferred upon the Company's customers during each subsequent five-month period beginning in November and ending in March through the GAC and 1.5% of such savings and revenues shall be retained by the Company. (Appendix D, I.B. 1.)

   b. Penalties assessed from the penalty only mechanisms described in Sections VII. Service Quality Performance Mechanism and VIII. Safety Maintenance Provision will be paid into the CMR by the Company. (Appendix D, I.B.2. and 3.)

   c. A transfer from the Annual Reconciliation funds described in Sections XII GAC Issues and XIII Lost-and-Unaccounted-For ("LAUF") Gas Mechanism. Annual Reconciliation funds other than those described in Sections XII.B. GAC Pricing of Storage Gas and XIII.B. Adjustment for Transportation Shrinkage shall not be transferred to the CMR and shall be treated as described in Section XII.C. Annual Reconciliation. (Appendix D, I.B.4. and 5.)

   d. Funds received for Receipt Facility Maintenance Fees as described in Section V.B. greater than $75,000 annually. (Appendix D, I.B.6.)

   e. Previous Settlement Agreements contained Sharing Mechanisms that are currently being audited by Staff. Amounts determined to be owed the customer through a signed document between the Company and Staff or by a determination by the Commission will be placed in the CMR. (Appendix D, I.B.7.)

f. Interest shall be accrued on a monthly basis on the balance of the CMR at the rate determined by the Commission for Other Customer Capital. (Appendix D, I.B.8.)

2. Use of Funds from the CMR are for the following items:

a. Changes above the level currently reflected in rates for Pensions ($2,774,000) and OPEBs ($8,459,000). (Appendix D, I.C.l.)

b. The Company will transfer $2 million from the CMR to the Accumulated Provision Uncollectible Accounts upon implementation of this Comprehensive Joint Proposal. If the Company's earnings for FY 2002 or for the three years ending September 30, 2003 fall below the target sharing level, an additional $1 million in total will be transferred from the CMR to the Company's Accumulated Provision Uncollectible Accounts. If the Company's accumulated earnings for the three years ended September 30, 2003 are above the target sharing level, the Company will reimburse the CMR the additional $1 million. Moreover, if the Company's accumulated utility operating earnings for the three-year period are under the target sharing level by $1 million or less, the Company will reimburse the CMR for the difference between $1 million and the actual level of under earnings (difference between the target sharing level utility operating earnings for the three years ended September 30, 2003 and the actual utility operating earnings for the three years ended September 30, 2003). The Company is authorized to expense annual amounts above $10.268 million. These amounts expensed will be acceptable for the earnings calculation purposes. Staff will receive a report detailing the amount expensed if the expense is greater than $10.268 million. This report will provide a basis for the level of uncollectible expense employing the traditional rate making approach. The Company will also permit Staff to discuss these findings in the report with the Company's outside auditors. To the extent that the Company's Accumulated Provision Uncollectible Accounts exceeds $10.268 million at the end of fiscal year 2003, Distribution shall reimburse the CMR for the excess over $10.268 million, not to exceed the amount charged to the CMR. (Appendix D, I.C.2.)

c. Funding for the continuation of the Elderly, Blind. and Disabled Program as described at Section X.L. (Appendix D, I.C.3.)

d. Expenditures for the Outreach and Education Program as defined in Section IX. (Appendix D, I.C.4.)

e. The incentive granted to the Company through the operation of the Outreach and Education Incentive as defined in Section IX. (Appendix D, I.C.5.)

f. The Gas Storage Working Capital requirement as described in Section XII.B GAC Pricing of Storage Gas. The Gas Storage Working Capital Requirement is capped at $1.8 million per year. Any amount remaining each year is to be returned to the Annual Reconciliation. (Appendix D, I.C.6.)

g. The Adjustment for Transportation Shrinkage as described in Section XIII.B. Adjustment for Transportation Shrinkage. (Appendix D, I.C.7.)

h. The LIRA Program will be phased out and ended by September 2002. Any expenditure until September 2002 will be funded through the CMR up to a maximum of $150,000 as described in Section X.E. (Appendix D, I.C.8.)

i. A transfer of $3,000,000 from the CMR to fund the arrearage forgiveness component of the Expanded LIRA Program ("ELIRA") upon implementation of the Comprehensive Joint Proposal as described in Section X.D. (Appendix D, I.C.9.)

j. A transfer of $150,000 from the CMR to fund the administration costs component of the ELIRA in each fiscal year as described in Section X.H. (Appendix D, I.C.9.)

k. Transfers, as necessary, from the CMR to fund the ELIRA rate discount in Year 2 as described in Section X.K (Year 2). (Appendix D, I.C. 10)

B. GRR

The GRR was established in Case 98-G-1291 to be used to defray costs arising from the Commission's restructuring of the gas industry. Through the course of a 12-month period, the GRR was funded, at a rate of $600,000 per month, and with interest as of June 30, 2001 stood at $8,121,290.93. If at September 30, 2003, there is a debit balance in the GRR, a surcharge mechanism will be instituted to collect that balance. The surcharge will be applied to the delivery charge for all customers except customers receiving service at negotiated rates.[21] A detailed description of the accounting treatment used for the GRR is set forth in Appendix D.

1. Funding

    a. Current balance of the GRR account. (Appendix D, II.A)

    b. Income received by the Company from Marketers using the Company's Billing Services will be transferred to the GRR. (Appendix D, II.B. 1.)

    c. Interest shall be accrued on a monthly basis on the balance of the GRR at the rate determined by the Commission for Other Customer Capital. (Appendix D. II.B.2.)

2. Uses of Funds from the GRR

    a. The Company will petition the Commission for recovery of the Billing Backout Credit. If the Commission grants the Company's petition the recovery will be funded through the GRR. (Appendix D, II.C. 1.)

[21] The surcharge will be calculated as the debit balance as of September 30, 2003 divided by the normalized consumption for accounts upon which the surcharge would apply. The Company will file the surcharge with the Commission when it submits its earnings report for the settlement period ending September 30, 2003. Based on the past practice, the earnings report and associated surcharge filing will be filed at the end of January 2004. The Parties agree that the Commission-approved surcharge will be placed into effect on the first day of the April 2004 billing cycle.

b. The CBoC as defined in Section IV.C. will be recovered through the GRR. (Appendix D, II.C.2).

c. Systems Enhancements related to the Commission's restructuring efforts, which are incremental, will be funded through the GRR up to $5 million. If the Company spends more than $5 million, the Company will defer those dollars over $5 million, and petition the Commission for recovery of those dollars. The Company will file a report with Staff detailing the System Enhancement expenditures each year. These expenditures will be subsequently audited to assure compliance with the incremental restructuring spending requirement. The Company is currently spending money on the following System Enhancements (but is not limited to these systems). (Appendix D, II.C.3.)

(1) Gas Management System expenditures are for the purchase and customization of Gas Master Software that manages key business functions such as pre-production month supply planning deal making for both spot and term deals, through production month tracking of actual and estimated flows, allocations and imbalances.

(2) Transportation Scheduling System integrates the information required for the Company dealing with the many transporters on the system. It tracks nominations and flow of gas, among other tasks. This also includes many changes required by the UBPs.

(3) STBA system was necessary in order to deal with the introduction of choice into Distribution's system.

(4) ED1 enhancements have been ordered by the Commission in Case 98-M-0667. EDI is described as the electronic exchange of information between entities using standard, machine processable, structured data formats. This also includes many changes required by the UBPs.

(5) NY Neural Net is a package (NOSTRADAMUS) that was purchased to facilitate the forecasting of gas requirements, especially during weekend periods.

VII. SERVICE QUALITY PERFORMANCE MECHANISM

The objective of the Service Quality Performance Mechanism is to provide a means of ensuring that acceptable levels of customer service are maintained by the Company in key areas of customer service as the competitive market continues to develop. If the delivery of customer service deteriorates by any significant degree the Company is subject to a financial penalty.

Distribution has operated under a customer service performance mechanism of various types for successive rate settlements. Accordingly a Service Quality Performance Mechanism is adopted by the Parties and shall operate as described in Appendix G.

VIII. SAFETY PERFORMANCE MEASURES

Distribution operates and maintains its system in accordance with applicable laws, orders and regulations governing the safe operation of its pipeline system. Nevertheless, it is recommended that a penalty-only performance regime be adopted for the Company to continue maintaining its system in the current manner and not as a mechanism to establish *a* higher standard of care.

Safety performance measures will be in effect for a two-year period. For the purpose of this Comprehensive Joint Proposal the years covered will be the fiscal years ending on September 30, 2002 and 2003. This is a penalty-only mechanism. Penalties will be assessed on the basis of Penalty Units applied for failure to achieve performance targets. Each Penalty Unit shall have a fixed value of $50,000. The individual performance measures and Penalty Unit assignments are listed in Appendix H.

Ix. OUTREACH AND EDUCATION

Customer awareness and understanding of "Gas Choice" is an essential part of Distribution's Outreach and Education efforts during the transition to a competitive market. Distribution will conduct baseline and annual tracking surveys to measure customer awareness and understanding of natural gas choice. Based on the results of the baseline survey, Staff and the Company will evaluate the need to enhance the Company's Outreach and Education effort regarding customer awareness and understanding of natural gas choice. An annual incentive mechanism will be implemented for increases in customer awareness and understanding above the base year level. The Outreach and Education Incentive Plan is described in Appendix I.

X. EXPANDED LOW INCOME RESIDENTIAL ASSISTANCE PROGRAM

For a number of years, the Company has offered a LIRA Program that provided substantial rate discounts and arrearage forgiveness to 2,000 eligible low-income customers. The Parties have developed a new program that will serve a greater number of low-income customers. The Expanded LIRA ("ELIRA") Program will provide rate discounts and one-time arrearage forgiveness for up to 30,000 eligible customers. The existing LIRA Program will be phased out over the next year and the participants will automatically be transferred to the new program once their arrears are forgiven. Although the rate discount in the ELIRA Program will be smaller than the sizable discount in the LIRA Program, many more customers will receive the benefit of lower bills under the expanded program.

The ELIRA Program will continue through the term of the agreement. Prior to the termination of the agreement, the program components and funding levels will be reviewed to determine whether the ELIRA Program should be continued, and, if so, in what form.

A. Eligibility

1. All Distribution active residential (SC 1) gas-heating customers (Revenue class 11) who received an Emergency HEAP payment during the previous or current heating season are eligible for the ELIRA Program.

2. There will be a verification of continued HEAP eligibility at the customer's one-year anniversary in the ELIRA Program.

3. All ELIRA Program participants will be enrolled in the Company's balanced billing option at the start of the ELIRA Program.

B. ELIRA Program Enrollments

All customers meeting eligibility criteria will be enrolled in the ELIRA Program. Participation will be capped at 30,000 customers.

C. Rate Discount

There will be a discount of $100 per year credited to bills in payments of $8.33/month.

D. Arrearage Forgiveness

During the first year of the ELIRA Program, there will be $3 million available for the forgiveness of pre-program arrears for customers enrolled in the ELIRA Program. Arrearage forgiveness is per customer and.not per account. That is, a customer initiating service at a new address or at the same address will not be eligible for arrearage forgiveness in subsequent years of the ELIRA Program. To provide fairness in equalizing the amount of arrears that are forgiven for each participant, the Company shall initially forgive up to $300 in pre-program arrearages for participants who are in arrears at the time of enrollment in the ELIRA Program. Based upon an analysis of current data available prior to implementation, the Company and Staff together reserve the right to adjust the maximum per-customer forgiveness amount. The customers will be credited until the $3 million is achieved.

During the second year of the ELIRA Program, arrearage forgiveness for new customers enrolling in the ELIRA Program with pre-program arrears will be subject to the overall expenditure cap of $3 million for all ELIRA Program costs. See infra, Section I., Cap on Expenditures.

E. Existing LIRA Program

All customers enrolled in the existing LIRA Program, who continue to pay their bills in a timely manner and are in the "debt forgiveness" phase of the LIRA Program may remain in the LIRA Program until such time as their arrears are forgiven but no longer than 12 months. However, the LIRA conservation credit will no longer be available to these customers. In no event will the LIRA Program continue past September 30, 2002. Upon discontinuation of the LIRA Program, or at the time a LIRA participant has all of his or her pre-program arrears forgiven, the customer will be transferred to the ELIRA Program. The existing LIRA Program shall be funded through the CMR through its remaining term.

Customers currently enrolled in the existing LIRA Program who have already transited through the forgiveness phase of the LIRA Program will be transferred to the ELIRA Program when ELIRA commences. After 12 months in the ELIRA Program, customers may be eligible to remain in the ELIRA Program, provided they meet the one-year HEAP eligibility verification.

F. Weatherization

Distribution will coordinate with weatherization agencies so those eligible participants in the ELIRA Program will receive information regarding weatherization services that may be available to them. This would include general referrals to outside agencies.

G. ELIRA Program Reports

The Company will submit quarterly program reports to Staff providing the following information on both a quarterly and cumulative basis:

- the number active participants;
- the number of customers who departed the ELIRA Program;
- dollars provided in rate discounts;
- dollars in arrears forgiven and the number of customers who received the forgiveness;
- other expenditures including administrative costs; and
- the number of referrals to weatherization agencies

H. Administrative Costs

Administrative costs for the ELIRA Program will be capped at $150,000 per year.

I. Can on Expenditures

YEAR1

An allowance of $5 million in Year 1 of the ELIRA Program (for the year ending September 30, 2002) shall be provided as follows:

- A maximum of $3 million shall be allowed for arrearage forgiveness;

- A maximum of $150,000 for administrative costs; and

- The remaining $1,850,000 shall be available for recovery of the rate discount. To the extent ELIRA Program enrollment creates a funding requirement (for the rate discount only) greater than this amount, the excess may be recovered in Year 2.

YEAR2

$3 million shall be allowed in **Year** 2 of the ELIRA Program (for the year ending September 30, 2003) as follows:

- $2,850,000 shall be available for recovery of the rate discount;

- A maximum of $150,000 will be available for administrative costs;

- To the extent funds remain in Year 2, carryover costs from Year 1 of the ELIRA Program shall be recovered through remaining Year 2 funds, and if Year 2 funds are exhausted, unrecovered rate discount costs from Year 1 and Year 2 may be recovered from the CMR; and

- In the event that there is no carryover of costs from Year 1, the Company may use remaining Year 1 funds to forgive arrears for customers enrolled in Year 2.

K. Recoverv of ELIRA Program Costs

YEAR1

- Arrearage Forgiveness
  - Up to $3,000,000 will be funded through the CMR (See Appendix D Section III, A.4).

- ELIRA Program Cap of $1,850,000 will be funded through:
  - The $800,000 associated with the LIRA delivery charge now recognized in rates.

- The $643,000 associated with funding of the LIRA Program now recognized in rates.

- Unexpended RD&D funds to the extent needed to fund $1,850,000 cap.

- Any expenditures in excess of the $5,000,000 cap attributable to the rate discount may be carried over to Year 2 for recovery from funds available if the cap of $3,000,000 in that year is not totally used to fund the ELIRA Program. (See Appendix D Section III, B.3)

- Administration

  - Funding of up to $150,000 will be recovered through the CMR.

YEAR 2

- Funding of the ELIRA Program will be from:

  - The $800,000 associated with the LIRA delivery charge now recognized in rates.

  - The $643,000 associated with funding of the LIRA Program now recognized in rates.

  - Unexpended RD&D funds to the extent needed to fund $2,850,000 cap.

  - Incremental funding, to the extent needed, to fund the $2,850,000 requirement will be recovered from the CMR.

  - Any expenditure in excess of the $2,850,000 cap attributable to the rate discount will be funded through the CMR. This includes the carryover from Year 1.

L. <u>Elderlv. Blind and Disabled Program</u>

Under the terms of a 1998 settlement, Distribution established a limited-term assistance program targeted to serve payment-troubled HEAP eligible elderly, blind and disabled customers. The program provides, based on an assessment of customer needs, the following benefits: case management, rate discounts, debt reduction and energy services including energy audits. thermostat installations, weatherization and heating system repair and replacement.

The Parties agree to continue the program at an annual $400.000 level, funded through the CMR. Of the $400,000 annual allowance, a maximum $200,000 will be used for rate reduction and debt forgiveness, and the remaining $200,000 will be used for energy efficiency and weatherization.

XI. AFFILIATE RULES

Distribution is a wholly-owned subsidiary of National, a holding company registered under the Public Utility Holding Company Act of 1935 ("PUHCA"). National also owns a regulated pipeline company subsidiary, Supply Corporation, and an unregulated electric and gas marketing company, National Fuel Resources, Inc., among other companies. All of these companies are "associate companies" under PUHCA, and all, by virtue of the relationship with National, are affiliated with Distribution. Although PUHCA governs transactions among Distribution and its affiliates. the Parties have agreed that the Commission will further regulate certain transactions between Distribution and Distribution's affiliates to insure the fair and non-discriminatory treatment of non-affiliated entities doing business on Distribution's system, and to prohibit transactions that unduly favor Distribution's affiliates over other entities. Toward that end, Distribution agrees to follow the Affiliate Rules appended hereto as Appendix J. Adherence to the terms of the Affiliate Rules contained in this Comprehensive Joint Proposal eliminates any "royalty" payments that could or might be asserted to be payable or imputed to Distribution, including and after the expiration of this Comprehensive Joint Proposal, unless the Company violates a term of the Affiliate Rules. If Distribution violates a term of the Affiliate Rules, the evidence of such violation shall be submitted to the Commission for it to impose remedial action, which may include imposition of a royalty, redress or penalties as applicable. No such remedial action shall be taken until after notice to the Company and an opportunity for hearing. Any royalty, redress or penalties imposed shall be proportionate to the nature and degree of the violation of the Affiliate Rules.

XII. GAC ISSUES

A. GAC Rule Changes

On April 13, 1999, the Commission issued a Memorandum and Resolution in Case 97-G-l 178 revising the rules governing the gas adjustment clause ("GAC") contained in 16 NYCRR 270.55. The Resolution included revisions modifying the GAC to reflect the restructuring of the gas industry; clarify some existing rules; and allow the GAC to reflect more accurate prices. Revisions were also included which moved recovery of costs closer in line with cost causation and gave customers more information. The Commission did not, however, require immediate implementation of these rule revisions, but allowed adoption to be completed in conjunction with each utility's rate restructuring.

Accordingly, the Parties agree that the following revisions should be made in Distribution's GAC services consistent with the Commission's Resolution:

1. The cost of gas will be unbundled so that charges for distribution and gas supply (capacity and commodity) are clearly and separately stated. The Base Cost of Gas will be removed from tariff rates. Distribution (transportation) rates will be separately stated as described in Section XIV.

2. Risk management costs are a legitimate component of gas cost and may be included in the GAC.

3. The use of estimated prices in effect on effective date of the GAC will be acceptable.

4. The demand component of the average cost of gas will be calculated on the basis of weather normalized volumes (forecasted volumes).

5. The commodity component of the average cost of gas will be calculated on the basis of estimated volumes for the month in which the GAC is effective.

6. Interim GAC reconciliations will be permitted as provided by the regulations. .

7. Revised GAC filings within five days of the effective date of an initial filing may be submitted when replacement of estimated prices with actual prices results in a change in the average cost of gas of more than 5%.

8. Weather Normalization Clause factors for each billing cycle will be included in the GAC statement.

B. <u>GAC Pricing of Storage Gas</u>

One benefit normally associated with the use of storage gas is the mitigation of price volatility during the winter. Customers' winter bills are reduced through the use of gas supplies purchased during the summer when prices are generally lower, and stored until needed in the winter period, when prices are generally higher.

As a consequence of the GAC methodology currently used by the Company, the pricing of gas storage by the Company tends to reflect the market price of gas on a current basis. The rate effect of this methodology is that customers do not receive the seasonal price benefit (through the GAC) normally associated with the use of storage during the winter. Instead, storage benefits are received after the fact, through the Annual Reconciliation of gas costs and in the gas storage working capital requirement embedded in base rates. In order to mitigate winter volatility, the Parties agree that the Company will modify the method used for pricing of storage gas in the following manner to reflect the actual cost of gas injected into storage:

1. Gas injected into storage will be priced at the commodity cost of gas for the month.

2. Gas withdrawn from storage will be priced at the weighted average commodity cost of gas for the injection season.

3. The withdrawal price will also be used as the transfer price for storage inventory charged to Marketers.

The Parties recognize and agree that by switching from the current methodology to the above-described methodology, the effect will be that customer “pre-payments” for storage gas will be reduced. In order to remedy the resulting shortfall in cash working capital, the Company will be permitted to transfer $3.6 million of the funds currently identified for the refund pursuant to 16 NYCRR Part 720 of the Commission’s regulations into the CMR for the purpose of funding the actual working capital requirement in each of fiscal years two and three. The requirement, to be funded, will be calculated separately for each fiscal year and is defined as the net rate base change resulting from pricing storage on a demand and commodity basis to a commodity basis as more fully described above. A rate of return is then applied to this net rate base change and taxes are included resulting in an annual revenue requirement. Based upon this revenue requirement calculation, the Company will be permitted to transfer from the

CMR up to $1.8 million in each of fiscal years two and three in order to mitigate the revenue shortfall attributable to a change in gas storage working capital. If the working capital requirement is less than $ 1.8 million, the difference between the $1.8 million and the working capital requirement will be transferred to an interest-bearing account and passed back to GAC sales customers through the GAC. An example of the calculation to be utilized for this transaction is provided in Appendix D, Section I.C.6. The Parties hereby request waiver of the Commission's regulations at 16 NYCRR §720-6.5 et al., to the extent necessary in order to give effect to this provision.

C. Annual Reconciliation

In order to insure that gas sales customers are charged only for the cost of gas supplies actually purchased to serve them, the Commission's regulations (16 NYCRR Part 720) require gas utilities to annually reconcile these cost against recoveries from customers. Gas cost recoveries are reconciled with gas expenses, adjusted for the LAUF incentive, each year, and a surcharge or refund to recover gas adjustment under-recoveries or refund gas adjustment over-collections is computed by the Company based on costs reported during a Determination Period of 12 months ended August 31 of each year ("Annual Reconciliation"). The computation is filed with the Commission on October 15, with the resulting surcharge or refund becoming effective with the first January billing cycle date. For the Determination Period ending August 31, 2001. the Company has calculated a gas cost overcollection of $44.3 million, which ordinarily would be subject to refund beginning on January 1, 2002. As a result of this Comprehensive Joint Proposal. four adjustments have been made to this amount. They are (1) a subtraction of $1.8 million in each of the two years covered by this

Comprehensive Joint Proposal, totaling $3.6 million, for working capital as described above; (2) a subtraction of $535,721 to fund the Adjustment for Transportation Shrinkage described infra at Section XIII.B.; (3) a subtraction of $735,616[22] for interest expense associated with refunding the overcollection balance over the filed-for 12-month period; and (4) an addition of $2,548,786 associated with updating the LAUF adjustment[23], resulting in a net overcollection available for refund of $41,957,924 million.[24] The Parties have agreed, however, that the refund should be provided to customers not over a 12-month period as is provided by regulation, but on a one-time basis in bills issued during the February billing cycle.[25] The Parties believe that refunding the overcollection on a one-time basis rather than over a 12-month period serves the public interest for the following reasons:

- Customers will receive a sizable credit (or payment, as more fully described below) in February 2002, during a time when gas bills are higher, thus providing substantial relief; and

- The one-time refund will promote competition because the charges billed by the Company will not be distorted by the application of a credit for 12 months, thus providing customers with a "price to compare" that better reflects prevailing market prices.

[22] The interest rate adjustment of $735,616 is based on an implementation of the one-time bill credit in the qualifying customers' February 2002 bill. If the bill credit is delayed beyond the February 2002 bill, the interest rate adjustment shall be recalculated to reflect the billing delay and the associated adjustment to interest will be included in the Company's annual gas cost reconciliation filing for the 12-month period ended August 2003.

[23] Included in the Company's October 12, 2001 Annual Reconciliation filing for a change in the loss allowance from 2.3% to 2.0%.

[24] Numerically. $41,957,924 = 44,280,477 - $3,600,000 - $53572 1 – $735,616 + $2,548,784.

[25] As directed by the Commission, the Company shall retain the net overcollection subject to refund through January 2002. Case 0 1 -G- 1472 - In the Matter of the Filing of Annual Reconciliation of Gas Expenses and Gas Cost Recoveries, Order issued December 27, 2001. Interest shall be applied to the deferred balance at the rate prescribed in the Commission's regulations.

A refund will be provided to all accounts in the Company's service territory that received sales service under SC Nos. 1, 2, 3, 5, 7, 8, and 9 at any time during the Determination Period ended August 3 1, 2001. Each account will receive its share of the total refund based on the amount of volume billed to the customer under the Company's sales rates for the billing months September 2000 to August 2001. Accounts that have subsequently converted to aggregated transportation service after the August 2001 billing cycle and are billed by the Company (including TIBS customers served by Marketers) will receive the refund in the form of a bill credit. Customers that have subsequently converted to aggregated transportation service after the August 200 1 billing cycle and are billed by Marketers will receive the refund in the form of a check. The Parties hereby request waiver of the Commission's regulations at 16 NYCRR Part 720 to the extent necessary to give effect to this provision.

XIII. LOST-AND-UNACCOUNTED-FOR ("LAUF") GAS MECHANISM

A. <u>LAUF and Transportation Shrinkage Level</u>

In 1990, the Commission established a mechanism by which all gas utilities are provided an incentive to control LAUF gas. The mechanism limits recovery of LAUF gas to a percentage level established in each gas utilities' most recent rate case. The LAUF incentive is calculated annually in conjunction with the Annual Reconciliation of gas costs and is based on the actual system percentage LAUF for the 12 months ended August 3 1 each year. The result of the LAUF incentive is determined based on whether or not the gas utility is able to achieve an actual percentage LAUF which is lower (or higher) than the percentage level previously set in a rate case.

The Parties agree that the percentage of LAUF gas to be reflected in rates during the first, second and third fiscal years will be 2%.[26] Beginning with the Company's Annual Reconciliation of gas costs and gas cost recoveries for the 12 months ended August 3 1, 2001, calculations of the LAUF adjustment included in the Company's Annual Reconciliation shall be calculated based on the total system physical throughput unaccounted for gas for the Company's New York Division. The calculation of the LAUF incentive included in the Company's Annual Reconciliation shall be determined as follows:

> The volume variance (stated in Mcf) between allowed purchases and adjusted actual purchases shah determine the LAUF volume gain or the LAUF volume loss. The LAUF volume gain/loss shall be multiplied by the average commodity rate for the Annual Reconciliation period (12 months ended August) to determine the total annual LAUF financial gain/loss to the Company. LAUF financial gains shah be added to total actual purchase gas costs for the reconciliation period and LAUF financial losses shall be deducted from the total actual gas costs for the reconciliation period. (The detailed calculation of the LAUF financial gains/losses as well as an example of the LAUF calculation is set forth *in* Appendix K.)

B. Adjustment for Transportation Shrinkage

For the period ending September 30,200 1, the Company applied a LAUF percentage to sales purchases of 2%, while the transportation shrinkage rate remained at 2.3% pursuant to the tariff. The Parties have determined to retroactively set the shrinkage factor at the same level allowed for LAUF (2%) for the period ending September 30, 2001. The resulting "overdelivery" of gas supplies shall be cashed out for each eligible Supplier at a rate of $3.75 per Mcf. Applied to a shrinkage variance of 142,859 Mcf, the total amount of $535,721 shall be funded through a charge against the CMR. Eligible

[26] The transportation shrinkage level shall be equal to the LAUF factor.

customers or Suppliers shall receive their cash-out proceeds via a one-time credit applied to STBA bills or, in the case of stand-alone (including CBA) customers, customer bills. For the period after September 30, 2001 during which time the shrinkage level remains at 2.3 % and until it is changed to 2.0%, the Parties agree that eligible Suppliers shall receive a non-cash in-kind "refund" for excess gas delivered during that period in the form of Distribution system supply (gas). Said supply refund will be credited to each Supplier's account by reducing the applicable ADDQ for the month subsequent to the effective date of tariff sheets filed to implement this Comprehensive Joint Proposal. The gas refund and related costs will be included in purchased gas costs identified in the Company's Annual Reconciliation of gas costs.

XIV. UNBUNDLED RATES

Unbundling of existing service class rates so that charges for distribution services and gas supply services are clearly and separately stated is appropriate for the restructuring of Distribution's services and consistent with the Commission's policy on restructuring of the gas industry. The identification of the charges for each service provided should facilitate the comparison of sales and transportation rates and therefore encourages customers to consider other alternatives.

A. Initial Unbundling

The Parties agree that the Company will unbundle its current sales rate into natural gas delivery charges (transportation rates) and natural gas supply charges (gas cost rates) identified (for purposes of illustration) in Appendix L. Small volume non-gas sales and transportation rates will be structured in the same manner to support comparability. In addition, to further enhance comparability between utility rates and a Marketer's offer, the Company will make the non-gas cost base rate structure and associated base rates charged to residential and small volume commercial customers (commercial, industriai and public authority customers consuming less than 5000 Mcf per year) the same (SC 1, SC 3, SC 13 TC-R and SC 13 TC-1 .0). Currently the non-gas rates and rate structures between small-volume sales and small-volume transportation customers are dissimilar. Sales rates are based on a declining block rate structure and transportation rates are based on a flat rate structure. This rate structure will accommodate the different billing systems utilized for transportation and sales services as the Company is now able to provide similar billing services for sales and transportation services, including the ability to bill for Marketers.

B. Unbundling Pursuant to Case 00-M-0504

The "unbundling" of rates described in the above subsection is only partial and is not to be confused with the unbundling effort currently under way in Case 00-M-0504, Unbundling Track, ("Unbundling Track") the outcome of which will control further unbundling of Distribution's rates. More specifically, the Parties agree that this Comprehensive Joint Proposal will not be interposed by the Company or any Party as a means to avoid compliance with the Unbundling Track orders. From October 1, 200 1 until the earlier of September 30, 2003 or the effective date of tariffs filed in response to Unbundling Track orders, Distribution shall apply the CBoC as described *supra* in Section IV. If unbundled rates are filed by Distribution under the Unbundling Track

Orders and become effective prior to September 30.2003, such unbundled rates shall upon the effective date replace the CBoC described in Section IV. The Parties agree that pursuant to this Comprehensive Joint Proposal, the Company will be permitted to recover its revenue deficiencies resulting from unbundled rates implemented -under the Unbundling Track Orders in an amount equal to the aggregate level of recovery applicable to the CBoC based on the established values of $3.30 per customer per month for Marketers performing their own billing function and $1.60 where the Company's utility single-bill service (TIBS or successor) is utilized by the Marketer for such revenue deficiencies incurred from unbundled rates charged through September 30, 2003.[27] Revenue deficiencies incurred in excess of the amount of recovery allowed in this Comprehensive Joint Proposal may be deferred and included in a future petition for recovery of revenue deficiencies (according to the standard of stranded cost recovery adopted by the Commission in the Unbundling Track orders) following the expiration of this Comprehensive Joint Proposal. The Parties further agree and recommend that the materiality threshold that applies to petitions for deferral accounting authority should be waived as necessary to give effect to this provision. The Parties do not intend that this provision guarantees the Company's recovery of such deferred amounts.

XV. BILLING FORMAT

Distribution's current bill format for transportation customers has been revised and approved by the Commission on a temporary basis, incorporating some aspects of

[27] The total amount available for recovery under this Comprehensive Joint Proposal shall be equal to the sum of both values ($3.30 and $ 1.60) appiied to Marketer-billed and utility-billed customers respectively, from October 1, 2001 to September 30, 2003 for each month under this Comprehensive Joint Proposal during which such customers are enrolled with a Marketer.

transportation service. However, this billing service will be replaced by a successor billing service that provides customers additional information.

The Parties are working collaboratively to address format and content changes intended to improve understandability, provide a price to compare, and lay the foundation for future presentation of unbundled rate components.

XVI. CLARIFICATION OF SHARING CALCULATION

The settlement agreement approved by the Commission in the Rate Order includes a sharing calculation (at Section 3) that requires further clarification. The parties agree that the sharing calculation will include the EB/Cap adjustment set at $0 (zero) and the capital structure will be as follows: Long Term Debt, 42.75%; Short Term Debt, 9.95%, Customer Deposits, .3%; and Common Equity, 47.0%.

AGREED to this 18th day of January 2002.

National Fuel Gas Distribution Corporation

By ______________________

Staff of the Department of Public Service

By ______________________

By ______________________

Crown Energy Services, Inc.

By Robert F. Hen

Dynegy Marketing & Trade, Inc.

By Melina Gandolfo

Energetix, Inc.

By Robert J. Ho

Independent Oil & Gas Association of New York

BY ____________________

Lenape Resources, Inc

BY ____________________

LepCorp, Inc.

BY ____________________

Multiple Intervenors

BY ____________________

National Fuel Resources Inc.

By Michael P. Berlowitz

Crown Energy Services, Inc.

BY ____________________

Dynegy Marketing & Trade, Inc.

By ____________________

Energetix, Inc.

BY ____________________

Independent Oil & Gas Association of New York

BY ____________________

Lenape Resources, Tnc.

BY ____________________

LepCorp, Inc.

BY ____________________

Multiple Intervenors

BY Michael B. Mager

National Fuel Resources Inc.

BY ____________________

By

LepCorp. Inc.

By Michael J Mastroianni
Michael J Mastroianni, President

Multiple Intervenors

By

Nornew Energy Supply, Inc.

By

Norse Pipeline. LLC

By

North American Energy Inc.

By

Small Customer Marketer Coalition

By

Texaco Energy Marketing. Inc.

By

By

LepCorp. Inc.

By

Multiple Intervenors

By

Nornew Energy Supply. Inc.

By

Norse Pipeline. LLC

By

North American Energy Inc.

By

Small Customer Marketer Coalition

By Usher Fogel, Counsel

Texaco Energy Marketing. Inc.

By

Nornew Energy Supply, Inc.

BY ________________________________

Norse Pipeline, LLC

BY ________________________________

North American Energy Inc.

By ________________________________

Small Customer Marketer Coalition

BY ________________________________

Texaco Energy Marketing, Inc.

BY ________________________________

Village of Hamburg Municipal Utility

BY ________________________________

ACRONYMS

Acronyms	Description
ADDQ	Aggregated Daily Delivery Quantity
ATS	Adjustment for Transportation Shrinkage
BTU	British Thermal Unit
CABS	Customer Aggregation Billing Service
CAC	Customer Assistance Center
CBA	Customer Balancing and Aggregation
CBoC	Competition Backout Credit
CIS	Customer Information System
CMR	Cost Mitigation Reserve
CRC	Customer Response Center
CSMM	Customer Service Maintenance Mechanism
CSO	Customer Service Order
CTN	Colder Than Normal
DPS	Department of Public Service
DTR Rate	Demand Transfer Recovery Rate
EDI	Electronic Data Interchange
EFT	Enhanced Firm Transportation
ELIRA	Expanded Low income Residential Assistance
EOM	End Of Month
ESS	Enhanced Storage Service
GAC	Gas Adjustment Clause
GISB	Gas Industry Standards Board
GRR	Gas Restructuring Reserve
GRT	Gross Receipts Tax
HEAP	Home Energy Assistance Program
HEFPA	Home Energy Fair Practices Act
IOGA	Independent Oil & Gas Association
LAUF	Lost-and-Unaccounted-For
LIRA	Low income Residential Assistance
Mcf	Thousand Cubic Feet (volumetric) or approx. 10 therms
Supply Corporation	National Fuel Gas Supply Corporation
NYMEX	New York Mercantile Exchange
OPEB	Other Post Retirement Employment Benefits
PSC	Public Service Commission
SC	Service Classification
SC 1	Residential Sales
SC 3	General Sales
SC 11	Deficiency imbalance Sales
SC 13D	Daily Metered Transportation
SC 13M	Monthly Metered Transportation
SC 18	Customer Balancing and Aggregation, a.k.a. CBA
SC 19	Supplier Transportation, Balancing and Aggregation, a.k.a. STBA
SOM	Start Of Month
STBA	Supplier Transportation, Balancing and Aggregation
TIBS	Temporary Interim Billing Service
UBPs	Uniform Business Practices

Appendix A

Active Parties

Crown Energy Services, Inc.

Dynegy Marketing & Trade, Inc.

Energetix Inc.

Independent Oil & Gas Association of New York

Lenape Resources, Inc.

LepCorp, Inc.

Multiple Intervenors

National Fuel Gas Distribution Corporation

National Fuel Resources Inc.

New York State Department of Public Service

Nornew Energy Supply, Inc.

Norse Pipeline, LLC

North American Energy Inc.

Small Customer Marketer Coalition

Texaco Energy Marketing, Inc.

Village of Hamburg Municipal Utility

Appendix B

Stranded Capacity Determination for
Pipeline Capacity Upstream
of National Fuel Gas Supply Corporation

Upstream pipeline stranded capacity shall be determined as the total upstream pipeline transmission capacity (excluding EFT capacity on National Fuel Gas Supply Corporation ("Supply Corporation")) and storage capacity (including Supply Corporation storage capacity) contracted by National Fuel Gas Distribution Corporation (the "Company") for delivery into Supply Corporation **("total upstream contracted capacity")** in **excess** of the **Company peak day capacity requirements** that *results from customers migratingfrom Company sales service to transportation service.* The associated **stranded upstream capacity costs** shall be recovered through **an upstream transition surcharge from** sales and aggregation transportation customers. Such surcharge, if any, shall be determined monthly and included in the Company's monthly GAC filing.

Company capacity requirements shall include all firm sales service requirements, transportation standby requirements, transportation imbalance requirements, and storage capacity assigned to aggregation services.

Stranded upstream capacity costs shall be calculated by multiplying total upstream pipeline transmission capacity (excluding EFT capacity on Supply Corporation) and storage capacity (including Supply Corporation storage capacity) costs **("upstream capacity costs")** by the ratio of **upstream pipeline stranded capacity** to **total upstream contracted capacity.**

The **upstream transition surcharge** shall equal the **stranded capacity costs** divided by **total throughput. Total throughput** shall equal historical normalized consumption for the most recent 12-month period for firm sales and transportation aggregation customers (specifically: Service Classification ("SC") Nos.: 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 22, and 13M customers receiving service from Suppliers under SC 19).

$$\text{upstream transition surcharge} = \text{stranded upstream capacity costs} \div \text{total throughput}$$

$$\text{stranded upstream capacity costs} = \text{upstream capacity costs} \times \frac{\text{upstream pipeline stranded capacity}}{\text{total upstream contracted capacity}}$$

Appendix C

Stranded Capacity Determination for
Intermediate Pipeline Capacity

Intermediate pipeline stranded capacity shall be determined as the total intermediate pipeline transmission capacity (currently EFT capacity on National Fuel Gas Supply Corporation ("Supply Corporation")) contracted by the Company **("total intermediate contracted capacity")** in **excess** of the **National Fuel Gas Distribution Corporation** (the "Company" or "NFGDC") peak day **capacity requirements** that *results from customers migratingfrom Company sales service to transportation service or is displaced by local production, gatheringfacilities, inter- or intra-state pipelines, which displace EFT capacity on Supply Corporation.* The associated **intermediate stranded capacity costs** shall be recovered through **an intermediate pipeline transition surcharge** from sales and aggregation transportation customers. Such surcharge, if any, shall be determined monthly and included in the Company's monthly GAC filing.

Company capacity requirements shall include all firm sales service requirements, transportation standby requirements, transportation imbalance requirements, and aggregation requirements utilizing NFGDC contracted intermediate capacity.

Stranded intermediate capacity costs shall be calculated by multiplying total intermediate pipeline transmission capacity costs **("intermediate capacity costs")** by the ratio of **intermediate pipeline stranded capacity** to **total intermediate contracted capacity.**

The **intermediate transition surcharge** shall equal the **stranded intermediate capacity costs** divided by **total throughput. Total throughput** shall equal historical normalized consumption for the most recent 12-month period for firm sales and transportation aggregation customers (specifically: Service Classification ("SC") Nos.: 1, 2, 3, 4, 5, 6, 7, 8, 9, 20, 22, and 13M customers receiving service from Suppliers under SC 19).

$$\text{intermediate transition surcharge} = \text{stranded intermediate capacity costs} \div \text{total throughput}$$

$$\text{stranded intermediate capacity costs} = \text{intermediate capacity costs} \times \frac{\text{intermediate pipeline stranded capacity}}{\text{total intermediate contracted capacity}}$$

NATIONAL FUEL GAS DISTRIBUTION CORPORATION
NEW YORK DIVISION
ACCOUNTING TREATMENT OF CMR, GRR AND EXPANDED LIRA PROGRAM

This Appendix sets forth the methodology that the Company will follow to implement Section VI – "Establishment and Use of Pools."

I. Cost Mitigation Reserve ("CMR")

A. Creation of CMR

The following account balances upon the implementation of the Comprehensive Joint Proposal will be transferred into Account 253518 CMR 00-G-l 858:

Account #	Title
253501	Refund Subs 113 NYD
253503	Non-FTC Refunds
1253504	Cr Cred & O/S Sales
253505	Cost Mitigation Res
253514	Non-FTC Refunds FY 2001
253515	Cr Cred & O/S Sales FY 2001
186740	LIRA Exp - NYD
188000 - 188013	RD&D Accounts

B. Funding of CMR

1. The aggregate of Capacity Release Savings and Net Revenues from Off-System Sales greater than $0 and less than or equal to $1 ,000,000 shall be credited to Account 253518 CMR 00-G-1858 during each fiscal year. (Section VI, A. 1 .a.)

2. If the Company is assessed a penalty under the Service Quality Performance Mechanism (Section VII Service Quality Performance Mechanism), a journal entry will be made to debit Account 495 Other Revenues and credit Account 253518 CMR 00-G-l 858. Any penalty incurred will be removed from the income statement for the calculation of the Sharing Mechanism performed at the end of each fiscal year. (Section VI, A.1 .b.)

3. If the Company is assessed a penalty under the Safety Performance Measures (Section VIII Safety Performance Measures), a journal entry will be made to Debit Account 495 Other Revenues and credit Account 253518 CMR 00-G-l 858. Any penalty incurred will be removed from the income statement for the calculation of the Sharing Mechanism performed at the end of each fiscal year. (Section VI, A.1 .b.)

4. A transfer from the funds currently identified for refund pursuant to 16 NYCRR Part 720 (Annual Reconciliation) of the Commission's regulation will be made in order to provide for the Gas Storage Working Capital requirement which is further defined in Section VI. This transfer from Account 191147 MGC NY 9/00-8/01 into Account 253518 CMR 00-G-1 858 will occur upon implementation of the Comprehensive Joint Proposal in the amount of $3,600,000. (Section VI, A.1.c.)

5. A transfer from the funds currently identified for refund pursuant to 16 NYCRR Part 720 (Annual Reconciliation) of the Commission's regulation will be made in order to provide for the Adjustment for Transportation Shrinkage which is further defined in Section VI. This transfer from Account 191147 MGC NY 9/00-8/01 into Account 253518 CMR 00-G-l 858 will occur upon implementation of the Comprehensive Joint Proposal in the amount of $535,721.25. (Section VI, A.1.c.)

6. Funds received for Receipt Facility Maintenance Fees (Product 1901 in Account 510180) over the amount of $75,000 annually will be credited into Account 253518 CMR 00-G-l 858. (Section VI, A.1 .d.)

7. Account 229001 Estimated Refund Prov 95G1009 and Account 229002 Estimate Red Prov 98G 1291 will be transferred into Account 253518 CMR 00-G-1 858 after a final amount is determined through a signed settlement between the Company and Staff or if necessary by a determination by the Commission. (Section VI, A. 1 .e.)

8. Interest shall be accrued on a monthly basis on the balance of Account 253518 CMR 00-G-1 858 at the rate determined by the Commission for Other Customer Capital. (Section VI, A.1 .f.)

C. Use of CMR Funds

It is within the Company's discretion to determine the order in which the balance in Account 253518 CMR 00-G-1 858 will be used to offset deferred costs and expenses determined herein. It is also within the Company's discretion to apply credit balances from any identified Costs and Expenses, except Pensions and OPEBs, to any other identified Costs and Expenses debit balance.

Any remaining balance of additional Costs and Expenses listed above for which deferral accounting treatment has not been previously approved shall, subject to the approval of the Commission, be deferred for collection at the next time base rates are changed following the expiration of this Comprehensive Joint Proposal. Deferral Accounting Treatment for such items for which deferral accounting has been previously granted shall continue at the end of this Comprehensive Joint Proposal or until these items are addressed in a base rate proceeding.

1. **Pensions/OPEBs**

Costs/Expenses over and above the specified amounts, as defined below, related to the following categories are to be deferred as described below:

Pensions	**$2,774,000**
OPEBs	**$8,459,000**

Pension and Other Postretirement Employee Benefits (**OPEBs**) Costs are accounted for in accordance with the "Statement of Policy and Order Concerning the Accounting and Ratemaking Treatment for Pensions and Postretirement Benefits Other Than Pension" issued and effective on September 7, 1993 (the Policy Statement). Under the Policy Statement there is deferral treatment for the difference between the rate allowance and the latest actuarial amounts and for the difference between the rate allowance and the amount collected from customers. These deferrals are recorded in various 186000 Accounts. To the extent amounts are applied to these deferrals existing at the end of each fiscal year from Account 253518 CMR 00-G-1 858 and income is recognized in Account 495000 these deferrals will be reduced and pension and postretirement benefit expense will be recognized in the appropriate expense accounts. The amounts applied to these deferrals shall be deposited to either an external funding vehicle or credited to the internal reserve accounts as is appropriate under the Policy Statement. (Section VI, A.2.a.)

2. The Company will transfer $2 million from the CMR to the Accumulated Provision Uncollectible Accounts upon implementation of this Comprehensive Joint Proposal through a debit to Account 253518 CMR 00-G-1 858 and a credit to account 144000 Accumulated Provision Uncollectible accounts. If the Company's earnings for FY 2002 or for the three years ending September 30, 2003 fall below the target sharing level, an additional $1 million in total will be transferred from the CMR (Account 253518 CMR 00-G-1 858) to the Company's Accumulated Provision Uncollectible Accounts (Account 144000). If the Company's accumulated earnings for the three years ended September 30, 2003 are above the target sharing level, the Company will reimburse the CMR the additional $1 million by debiting Account 144000 Accumulated Provision Uncollectible Accounts and crediting Account 253518 CMR 00-G-1858._Moreover, if the Company's accumulated utility operating earnings for the three year period are under the target sharing level by $1 million or less, the Company will reimburse the CMR for the difference between $1 million and the actual level of under earnings (difference between the target sharing level utility operating earnings for the three years ended September 30, 2003 and the actual utility operating earnings for the three years ended September 30, 2003) by debiting Account 144000 Accumulated Provision Uncollectible Accounts and crediting Account 253518 CMR 00-G-1 858. The Company is authorized to expense annual amounts above $10.268 million. These amounts expensed will be acceptable for the earnings calculation purposes. Staff will receive a report detailing the amount expensed if the expense is

greater than $10.268 million. This report will provide a basis for the level of uncollectible expense employing the traditional rate making approach. The Company will also permit Staff to discuss these findings in the report with the Company's outside auditors. To the extent that the Company's Accumulated Provision Uncollectible Accounts exceeds $10.268 million at the end of fiscal year 2003, Distribution shall reimburse the CMR for the excess over $10.268 million, not to exceed the amount charged to the CMR by debiting Account 144000 Accumulated Provision Uncollectible Accounts and crediting Account 253518 CMR 00-G-1858. (Section VI, A.2.b.)

3. Costs after October 31, 2001 arising from the Elderly, Blind, Disabled (EBD) Program, will be debited to Account 182101 EBD. The debit balance will be offset by an amount from Account 253518 CMR 00-G-1 858 at the end of each fiscal year. The expenditure level is set at a maximum of $200,000 per year to be used for debt reduction or rate discount and at a maximum of $200,000 annually for program measures (energy audits, thermostats, insulation, and heating repair and replacement). Labor or Labor Loaned and Borrowed is not to be included in Account 182101 EBD. (Section VI, A.2.c.)

4. Expenditures for the Outreach and Education Program up to $350,000 per year will be funded through the CMR, subject to Staffs review. The costs will be debited to Account 182102 Outreach & Education through the year. At September 30 of each year, Account 182102 Outreach & Education will be credited and Account 253518 CMR 00-G-1858 will be debited. (Section VI, A.2.d.)

5. The incentive granted to the Company through the operation of the Outreach and Education Incentive will be funded through the CMR. When the incentive is granted a journal entry will be made which debits Account 253518 CMR 00-G-l 858 and credits Account 495 Other Revenues. The incentive granted will be removed from the income statement for the calculation of the Sharing Mechanism performed at the end of each fiscal year. (Section VI, A-2-e.)

6. The Gas Storage Working Capital requirement resulting from the change in Gas Storage Pricing as addressed in Section XII. B. will be funded through the CMR. The entry will be a debit to Account 253518 CMR 00-G-l 858 and a credit to Account 495 Other Revenues. The calculation for each fiscal year amount is as follows (example uses estimated numbers): (Section VI, A.2.f.)

Initially, estimates will be used in order to make an entry each year on September 30. Subsequently, this calculation will be updated for actual information and filed with the Earnings Calculation in January of the following year.

The following is an example demonstrating the methodology which will be used to calculate the Gas Storage Working Capital. The values presented below reflect proforma information which will be updated for known information in accordance with the preceding paragraph.

Net Rate Base after modification in storage pricing (1)	$20,749,647
Net Rate Base before modification in storage pricing (2)	$11,729,379
Net Increase in Rate Base	$9,020,268
Net Increase in Rate Base	$9,020,268
Rate of Return (3)	9.06%
Operating Income Shortfall	$817,236
Net Increase in Rate Base	$9,020,268
Weighted Average Cost of Debt(3)	3.65%
Interest Cost Increase	$329,240
Federal Tax Rate	35%
Operating Income Increase	$115,234
Net Operating Income Shortfall	$702,002
Retention Factor	61.117419%
Gas Storage Working Capital Revenue Shortfall	$1,148,612

Note (1) Reflects commodity only storage pricing. (Section XII. B.)
Note (2) Reflects demand & commodity storage pricing. (Section XII.B.)
Note (3) Source: Calculation of Earnings for Sharing Purposes, as filed each January for the previous fiscal year.

7. A journal entry will be made when Suppliers receive their cash-out proceeds via the Adjustment for Transportation Shrinkage credit as referenced in Section XIII. B. which will debit Account 253518 CMR 00-G-1 858 and credit Account 495 Other Revenues. (Section VI, A.2.g.)

8. Expenditures for the LIRA Program will continue to be accumulated into Account 186740 LIRA until September 30, 2002. Expenditures up to the maximum of $150,000 will be funded through the CMR by debiting Account 253518 CMR 00-G-1858 and crediting Account 186740 LIRA. (Section VI, A.2.h. also Section X, E.)

9. The debt forgiveness and administrative costs for the Expanded LIRA ("ELIRA") Program will be funded through the CMR. An entry will be made upon implementation of the Comprehensive Joint Proposal which debits Account 253518 CMR 00-G-1 858 and crediting Account 182103 Expanded LIRA in the amount of $3,150,000. On September 30, 2002, for any portion of the $3,150,000 not expended, an entry will be made to transfer that remainder

back into the CMR by debiting Account 182103 Expanded LIRA and crediting Account 253518 CMR 00-G-l 858. On October 1, 2002, a transfer of $150,000 will be made by debiting Account 253518 CMR 00-G-l 858 and crediting Account 182103 Expanded LIRA. On September 30, 2002, for any portion of the $150,000 not expended, an entry will be make to transfer that remainder back into the CMR by debiting Account 182103 Expanded LIRA and crediting Account 253518 CMR 00-G-1858. (Section VI, A.2.i and j.)

10. At September 30, 2003, to the extent that there is a debit balance in Account 182103 Expanded LIRA related to the rate discount, an entry will be made to fund that need from the CMR. The entry shall be a debit to Account 253518 CMR 00-G-1858 and a credit to Account 182103 Expanded LIRA. (Section VI.A.2.K.).

II. Gas Restructuring Reserve ("GRR")

A. Continuation of GRR

Account 253506 Gas Restructure Resv will continue as the GRR.

A transfer of $5,000,000 from Account 253506 Gas Restructure Resv to Account 253519 GRR Systems will occur upon implementation of the Comprehensive Joint Proposal. (Section VI, B.1.a)

B. Funding of GRR

1. The balance in Account 253015 Dfd Customer Billing Svc Charge will be transferred to Account 253506 Gas Restructure Resv at the end of each fiscal year. (Section VI, B. 1. b)

2. Interest shall be accrued on a monthly basis on the balance of Account 253506 Gas Restructure Resv and Account 253519 GRR Systems at the rate determined by the Commission for Other Customer Capital. (Section VI, B.1.c.)

C. Use of GRR Funds

1. Billing Backout Credit

Upon the approval by the Commission of the Company's petition for recovery of the revenue deficiency as described in Section IV. C. Billing Backout Credits, the credits will be recovered by debiting Account 253506 Gas Restructure Resv and crediting Accounts 489318 Backout Credit - TransRev - Enduser and 489319 Backout Credit - TransRev - NFRuser on a monthly basis. (Section VI, B.2.a)

2. Competition Backout Credit ("CBoC")

CBoC as defined in Section IV. C. will be recovered by debiting Account 253506 Gas Restructure Resv and crediting Account 495805 Competition Backout Cr-Enduser and crediting Account 495806 Competition Backout Cr - NFR on a monthly basis. (Section VI, B.2.b)

3. Expenditures for System Enhancements related to the Restructuring effort will be funded through the GRR to a maximum of $5000,000. Expenditures over the $5000,000 cap will be deferred and a petition will be filed with the Commission requesting recovery. A journal entry will be made upon implementation of the Comprehensive Joint Proposal which debits Account 253519 GRR Systems and credits the following accounts, thereby clearing these deferred balances:

Account #	Title
186611	NY Gas Mgt System O&M
186612	NY Gas Mgt System Capital
186613	Trans Sched System Cost
186616	TSS NY O&M
186619	PTA/STBA - NY
186622	EDI NY Capital
186623	EDI NY O&M
186630	NY Neutral (Neural) Net O&M

At the end of each fiscal year a similar journal entry will be made which debits Account 253519 GRR Systems and credits the same accounts and any additional accounts that arise due to System Enhancements until the cap of $5,000,000 is reached. (Section VI, B.2.c)

D. If at September 30, 2003, there is a debit balance in the GRR (Account 253506 Gas Restructure Resv), a surcharge mechanism will be instituted for the period October 1, 2003 through September 30, 2004 to collect that balance. The surcharge will be applied to the delivery charge for all customers except customers receiving service at negotiated rates. (Section VI, B.)

III. ELIRA Program

A. Funding ELIRA Program

1. On September 30 of each fiscal year, any net credit balance in Accounts 188000 through 188013 RD&D will be offset by a net debit to those Accounts and a credit to Account 182103 Expanded LIRA. A net debit to Accounts 188000 through 188013 RD&D will be offset by a net credit to Accounts 188000-188013 and a net debit to Account 253518 CMR 00-G-l 858. (Section X, K.)

2. The annual revenue stream for the LIRA expense recognized in rates of $643,000, based on the allowance in Case 94-G-0885, will be deposited into Account 182103 Expanded LIRA. (Section X, K.)

3. The margin impact of transferring the LIRA customers to the ELIRA Program will be calculated each month and an entry will be made to transfer that margin increase to the ELIRA Program. The entry will be a debit to Account 495 Other Revenues and a credit to Account 182103 Expanded LIRA. (Section X.K.)

4. A transfer of $3,000,000 from the CMR will be accomplished by debiting Account 253518 CMR 00-G-1 858 and crediting Account 182103 Expanded LIRA to fund the arrearage forgiveness component of the Program upon implementation of the Comprehensive Joint Proposal. (Section X, K.)

5. A transfer of $150,000 from the CMR will be accomplished by debiting Account 253518 CMR 00-G-1 858 and crediting Account 182103 Expanded LIRA to fund the administration costs component of the ELIRA Program in each fiscal year. (Section X, K.)

6. Interest shall be accrued on a monthly basis on the balance of Account 182103 Expanded LIRA at the rate determined by the Commission for Other Customer Capital.

B. Use of Funds

1. Arrearage Forgiveness is available to each customer as described in Section X, D. of the Comprehensive Joint Proposal. Each month the Arrearage Forgiveness will be accumulated and debited to Account 182103 Expanded LIRA and credited to Account 142100 A/R Gas Accounts. (Section X, D.)

2. Program Costs to a maximum cost of $150,000 per year will be debited to Account 182103 Expanded LIRA. (Section X, H.)

3. The rate discount will be calculated every month. An associated entry will be made every month to increase revenues (credit to Account 495 Other Revenues) and decrease the ELIRA Program (debit to Account 182103 Expanded LIRA). At September 30, 2003, to the extent that there is a debit balance in Account 182103 Expanded LIRA related to the rate discount, an entry will be made to fund that need from the CMR. The entry shall be a debit to Account 253518 CMR 00-G-1 858 and a credit to Account 182103 Expanded LIRA.

PRODUCER INTERCONNECTION AGREEMENT

THIS INTERCONNECTION AGREEMENT (the "Agreement") is made and entered into this ________ day of ____________, , by and between ____, hereinafter, "Operator,"

and

NATIONAL FUEL GAS DISTRIBUTION CORPORATION, 10 Lafayette Square, Buffalo, New York 14203, hereinafter, "NFGDC."

WITNESSETH

WHEREAS, NFGDC is a public utility authorized and obligated to receive and transport natural gas and to provide retail natural gas service subject to the jurisdiction of the Public Service Commission of the State of New York; and

WHEREAS, by means of facilities operated by it, Operator proposes to deliver to, and deliver into facilities owned and operated by NFGDC natural gas produced in the State of New York; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, NFGDC and Operator agree as follows:

ARTICLE I.

DEFINITIONS

(A) "Receipt Point" means the point of interconnection between Operator's facilities and the facilities of NFGDC located immediately upstream of NFGDC's measurement facility which is used to identify such point of interconnection in Exhibit A.

(B) "Exhibit A" means the document entitled "Exhibit A" which is attached hereto (and by such attachment, made a part hereof), as said document may be amended or supplemented, from time to time.

(C) "Btu" means the amount of heat required to raise the temperature of one (1) pound of water from fifty-eight degrees Fahrenheit (58° F) to fifty-nine degrees Fahrenheit (59° F), as measured through chromatographic analysis, by a calorimeter, or by any other acceptable industry method for establishing heating value, and determined on an anhydrous (dry) basis, at sixty degrees Fahrenheit (60° F), at a standard pressure of fourteen and seventy-three hundredths (14.73) pounds per square inch absolute.

(D) "Cubic Foot" means the volume of gas contained in one (1) cubic foot of space at a standard pressure of fourteen and seventy-three hundredths (14.73) pounds per square inch absolute and a standard temperature of sixty degrees Fahrenheit (60" F), under standard gravitational force.

(E) "Mcf' means one thousand (1,000) cubic feet of gas, determined on the measurement basis set forth in this Agreement.

(F) "Day" means the twenty-four (24) hour period commencing at ten o'clock a.m., Eastern Time (10:00 a.m.) on one calendar day and ending at 10:00 a.m., Eastern Time on the following calendar day, or as otherwise established by the Gas Industry Standards Board ("GISB").

(G) "Month" means the period commencing at ten o'clock a.m., Eastern Time (10:00 a.m.) on the first day of a calendar month and ending at 10:00 a.m., Eastern Time on the first day of the next calendar month, or as otherwise established by GISB.

(H) "Operator's Gas" means the natural gas delivered into NFGDC's facilities at any given time at any given Receipt Point.

ARTICLE II.

DELIVERY OF GAS INTO NFGDC FACILITIES

(A) Operator shall not deliver (or permit the delivery of) any gas into any facility owned or operated by NFGDC other than at a Receipt Point identified on Exhibit A at the *time* of such delivery (the "Exhibit **A** Receipt Point(s)"). No Receipt Point shall be deemed to have been added to Exhibit A, and Exhibit **A** shall not be deemed to have been otherwise amended or supplemented, unless and until such amendment or supplement of Exhibit A shall be evidenced by a writing executed by Operator and NFGDC.

(B) Operator warrants and represents as follows:

(1) All gas delivered into NFGDC's facilities at any one Receipt Point shall be gas produced exclusively from the wells (and only those wells) which are associated with such Receipt Point and identified on the copy of Exhibit A which is attached to this Agreement at the time of such delivery.

(2) Gas produced or scheduled by Operator to be produced from wells not identified in Exhibit A shall be authorized for addition to Exhibit A and gas received therefrom accepted by Distribution at the designated Receipt Point so long as:

(i) Operator provides Distribution with 15 days written notice of its intent to add said additional well(s) to Exhibit A, together with the scheduled turn-on date; and

(ii) The well has been tested by or caused to be tested by Distribution and the results therefrom meet Distribution's satisfaction;

(iii) Provided, however, if Distribution fails to perform or cause to perform such well test by Operator's scheduled turn-on date, as provided in subdivision (i) above, said well(s) may nonetheless be turned on and production therefrom shall be accepted by Distribution at the designated Receipt Point, subject to Operator's sole liability for damages resulting from such production, and further subject to Distribution's determination, upon testing at any later date, that such gas is not acceptable pursuant to the terms and conditions of this Agreement.

(iv) The criteria contained in this paragraph (2) shall also apply to new or different formations of gas that are accessed from an existing well already identified on Exhibit A.

(C) Operator shall deliver gas at a pressure sufficient to enable such gas to enter NFGDC's facilities against the pressure prevailing therein from time to time, provided, however, that Operator shall not deliver gas at any Receipt Point at a pressure in excess of the pressure designated by NFGDC.

(D) Operator shall not install or operate (or permit any other entity to install or operate) compression facilities in order to deliver gas into any NFGDC facility ("NFGDC-Related Compression Operations") without the express prior written consent of NFGDC, which consent shall not be unreasonably withheld.

(E) Operator warrants that all NFGDC-Related Compression Operations shall be conducted in a manner (i) so as to prevent the pulsations therefrom from interfering with NFGDC's measurement at any Receipt Point, and (ii) so that compressed gas will be delivered to NFGDC at a temperature not exceeding one hundred twenty degrees Fahrenheit (120" F).

(F) Operator shall give NFGDC written notice at least fourteen (14) days prior to the commencement of (and any material change in) authorized NFGDC-Related Compression Operations.

(G) Operator shall give NFGDC written notice at least twenty-four (24) hours prior to any material change in the maintenance routine applicable to any compressor used in NFGDC-Related Compression Operations. For purposes of this subsection "material" shall mean any change that may produce a variance in gas volumes or pressure.

(H) In the event that the installation, operation and/or maintenance of Operator's compressor used in NFGDC-Related Compression Operations requires (in NFGDC's reasonable judgment) modification(s) to any facility owned or operated by NFGDC, the cost of such modification(s) shall be borne by Operator. Operator shall consult with NFGDC so as to assist NFGDC in ascertaining the extent to which such modification may be indicated, and on the basis of such consultation and NFGDC's own judgment, NFGDC shall endeavor to notify Operator of its determination prior to the date scheduled by Operator for such installation, operation and/or maintenance. Notwithstanding NFGDC's efforts to provide such notice to Operator, Operator shall remain solely responsible for costs incurred by NFGDC in the event resulting and reasonably unforeseen modification of NFGDC facilities are required.

(I) Operator shall, at its own cost and expense, (i) obtain, provide NFGDC with, and maintain any easement(s) or other land interest(s) which, in NFGDC's judgment as to type and extent, are reasonably necessary for the installation, operation and maintenance of NFGDC's receipt and related measurement facilities; and (ii) upon NFGDC's request, provide NFGDC with a copy of the recorded instruments evidencing such land interests and NFGDC's beneficial interest therein.

(J) Receipt facilities shall be installed, owned and maintained by and at the expense of either NFGDC or Operator according to the below schedule. Such equipment shall be installed at each Exhibit A Receipt Point facility, which in NFGDC's reasonable judgment, may be necessary to accommodate the deliveries of gas received and projected to be received by it at the Receipt Points. The normal operation, calibration, maintenance, adjustment and repair of the measurement equipment shall be performed by the owner of the equipment. Modifications to Receipt Facilities resulting from changes in Operator's operations shall be performed at Operator's cost and expense. The Receipt Facilities shall be operated in accordance with the applicable specifications of the Gas Measurement Committee of the Natural Gas Department of the American Gas Association as amended from time to time, or in accordance with any other mutually agreeable standard commonly accepted in the industry.

Equipment	Install by	Own by	Maintain by	Paid by
Meter/Recording instrument	NFGDC	NFGDC	NFGDC	NFGDC
Meter run and valves	Either	Either	Either	Operator
Regulator	Operator	Operator	Operator	Operator
Drying Equipment	Operator	Operator	Operator	Operator
Odorizing Equipment	NFGDC	NFGDC	NFGDC	Operator
"Pop-offs"/Relief valves	Either	Either	NFGDC	Operator
Mainline valve	Either*	NFGDC	NFGDC	Operator
Heaters	Operator	Operator	Operator	Operator
Water separator/drips	Operator	Operator	Operator	Operator
Communications facilities	Operator	Operator	Operator	Operator
Telemetrics/Teleflow	NFGDC	NFGDC	NFGDC	Operator

*Pursuant to a determination by NFGDC

(K) Operator shall pay to NFGDC the Receipt Facility Maintenance Fee(s), if any, which shall be applicable, from time to time, pursuant to the provisions of NFGDC's Tariff. In this connection, Operator agrees that NFGDC shall have the unilateral right, exercisable at its sole option, to file with any regulatory authority having jurisdiction, and to make effective, (i) initial and revised rates and charges applicable to NFGDC's operations hereunder, (ii) changes in any provision of the General Terms and Conditions of NFGDC's Tariff applicable to NFGDC's operations hereunder, and (iii) the terms and conditions of this Agreement (hereinafter, collectively, the "Receipt Parameters"). NFGDC agrees that Operator may protest or contest any such filing and/or may seek from any duly constituted regulatory authority having jurisdiction such revision of any one or more of the Receipt Parameters as may be necessary or appropriate to cause the same to be, in all respects, just and reasonable.

(L) Operator shall, at its own cost and expense, provide, operate and maintain in safe and efficient operating condition such regulators, relief valves, and other equipment as may be necessary in NFGDC's reasonable judgment to avoid excessive pressures (and the risk of such pressures) in facilities owned and operated by NFGDC or its customers.

(M) Operator acknowledges that:

(1) The Receipt Points identified in Exhibit A are located on NFGDC's gas distribution facilities;

(2) NFGDC must, at all times, be in a position to operate, maintain enhance, and/or replace any one or more of its facilities in such a manner, at such times, and under such circumstances as will enable it to furnish and provide facilities and service which are safe and adequate and in all respects just and reasonable;

(3) The maximum and/or minimum delivery pressures or other parameters applicable to Operator's delivery of gas into NFGDC's facilities may vary from time to time, in light of the above, and in order to enable NFGDC to satisfy its retail market requirements, including but not limited to its firm service obligations, transportation obligations, and to ensure the maintenance of safe operating conditions throughout its system including, but not limited to, the maintenance, enhancement and/or improvement of its facilities;

(4) Operator acknowledges NFGDC's right (a) to restrict and/or completely stop Operator's deliveries at any one or more Receipt Points insofar as reasonably necessary in NFGDC's judgment to accommodate the above requirements, and/or (b) to designate and redesignate, from time to time, the maximum pressure or other delivery parameter(s) temporarily applicable to deliveries of gas by Operator at any one or more Receipt Points; and

(5) Without limitation of the remedies available to NFGDC in respect of any breach of this Agreement, a breach of any one or more of the obligations undertaken by Operator under paragraphs (A), (B), (C) and (E) of this Article II shall constitute a material breach of this Agreement.

ARTICLE III.

MEASUREMENT

(A) The unit of volume for purposes of measurement of the gas delivered into NFGDC's facilities at the respective Exhibit A Receipt Points shall be Mcf.

(B) For purposes of measurement and meter calibration, the atmospheric pressure shall be deemed to be constant at fourteen and four-tenths (14.4) pounds per square inch absolute.

(C) Unless temperature compensation measurement equipment is utilized, the temperature of gas flowing through NFGDC's Receipt Facilities shall be deemed to be sixty degrees Fahrenheit (60° F).

(D) The total heating value of the gas delivered into NFGDC's facilities at the respective Exhibit A Receipt Points shall be determined by tests of samples of gas collected at said Receipt Points at such time(s) as may be determined by NFGDC. The unit of measurement of heating value shall be Btu. Btu determinations shall be made as often as NFGDC deems appropriate, and at NFGDC's expense, provided, however, that

Btu determinations which are made by NFGDC at Operator's request shall be made by NFGDC at Operator's cost and expense.

(E) If undertaken at Operator's request, NFGDC's test of the accuracy of any meter or other measurement equipment owned and used by NFGDC to measure volumes of gas delivered into its facilities shall be arranged and conducted, insofar as reasonably practicable, so as to permit representatives of Operator to be present. If, upon any such test (whether conducted at Operator's request or upon NFGDC's own initiative) any such meter or measurement equipment shall be found to be inaccurate, NFGDC shall adjust the same as soon as practicable to read correctly; and

(1) If such inaccuracy is less than three percent (3%), the previous readings shall be deemed correct, and, in the event such test was conducted at Operator's request, Operator shall bear all costs of such test;

(2) If such inaccuracy is three percent (3%) or more, the previous readings shall be corrected to zero (0) error for the period of time during which such meter or other measurement equipment is known or agreed to have been inaccurate. If' the length of such period of inaccuracy is not known or agreed upon, such correction shall be made for a period equal to one-half (½) of the time which has elapsed since the date of the last calibration, provided, however, that such correction period shall not exceed thirty (30) days.

If any such meter or other measurement equipment is out of service, or inaccurate by three percent (3%) or more, under circumstances where the correction of previous readings of such equipment to "zero (0) error" is not feasible, then the volume of gas delivered during the period shall be estimated (a) by using data recorded by any check-measuring equipment, if installed and registering accurately, or (b) if such check-measuring equipment is not installed or registering inaccurately, by correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculation, or (c) if neither such method is feasible, by estimating the quantity delivered based upon deliveries under similar conditions during a period when equipment was registering accurately.

<u>ARTICLE IV.</u>

<u>GAS OUALITY</u>

(A) Operator understands and acknowledges that NFGDC will not continuously monitor, test, or otherwise inspect Operator's Gas prior to the delivery thereof into

NFGDC's facilities. Operator further acknowledges that, irrespective of the contractual disposition of Operator's Gas, all such gas is commingled with and becomes an inseparable part of, the gas supply used by NFGDC to satisfy its obligations to its retail and transportation customers. Accordingly, Operator expressly warrants and represents that (i) Operator's Gas shall, in all respects and at all times, consist solely of gas which is merchantable and fit for use by NFGDC's retail customers, and (ii) without limitation of the generality of the foregoing, Operator's Gas shall at all times, and in all respects, meet at least the following minimum quality specifications:

(1) Operator's Gas shall be entirely free of dust, objectionable odors, and, subject to the provisions of Article IV(A)(3), all other gaseous and solid matter which might damage or interfere with the proper operation of the pipelines, regulators, meters or other equipment and apparatus through which it flows or in which it is used;

(2) Operator's Gas shall be entirely free of all hydrocarbon liquids and other material in liquid form, including, without limitation, water, glycol, brines, condensate and oil;

(3) All gas delivered by Operator to NFGDC hereunder into NFGDC's facilities through any Receipt Point listed on the attached Exhibit A shall be dehydrated by Operator for removal of water present therein in a vapor state to a level determined acceptable by NFGDC, at its sole discretion, from time to time. In no event shall the acceptable level, as determined by NFGDC, be required to be less than seven (7) pounds of water vapor (H_2O) per million cubic feet;

(4) Operator's Gas shall contain not more than twenty (20) grains of total sulfur (S), nor more than three-tenths (0.3) grain of hydrogen sulfide (H_2S) per one hundred (100) cubic feet;

(5) Operator's Gas shall contain not more than two-tenths of one percent (0.02 of 1%) by volume of oxygen (O_2);

(6) Operator's Gas shall contain not more than five percent (5%) by volume of a combined total of carbon dioxide (CO_2) and nitrogen (N_2) components; provided, however, (i) that the total carbon dioxide (CO_2) content of Operator's Gas shall not exceed two percent (2%) by volume, and, (ii) that Operator's Gas shall be entirely free of NOx compounds;

(7) Operator's Gas shall have a temperature of not more than one hundred twenty degrees Fahrenheit (120°F); and

(8) Operator's Gas shall have a total heat content of not less than nine hundred sixty-seven (967) Btu per cubic foot, and not more than eleven hundred (1,100) Btu per cubic foot (determined on the measurement basis set forth in this Agreement), provided, however, that NFGDC shall have the option (but never the obligation) to accept Operator's Gas having a heat content outside of said range, when in NFGDC's sole judgment, such different heat content does not prevent such gas from being merchantable and fit for use in NFGDC's retail markets.

(B) Operator shall make every reasonable effort to keep Operator's Gas entirely free of oxygen (O_2).

(C) Operator shall furnish, install, operate, maintain and keep in efficient and safe operating condition, at Operator's sole cost and expense, such drips, separators, dehydrators, alcohol bottles, gas cleaners, treatment facilities, and any other devices or equipment as may be or become reasonably necessary to effect compliance with the quality specifications set forth in this Article.

(D) In addition to any other remedy which may be available to NFGDC hereunder, or under any provision of law, in respect of Operator's undertakings expressed in this Article, NFGDC shall have and be entitled to exercise any one or more of the following rights, options and remedies, on a non-exclusive basis, in the event of any breach by Operator of any one or more of said undertakings, to wit:

(1) Upon notice to Operator, treat or process Operator's Gas, at Operator's sole cost and expense, insofar as reasonably necessary in NFGDC's judgment to cause the same to conform to the quality specifications set forth in this Article;

(2) Continue to receive Operator's Gas, with or without treatment or processing thereof;

(3) Discontinue receiving Operator's Gas at the affected Receipt Point(s) until the occasion(s) for the exercise of a remedy by NFGDC has, in NFGDC's reasonable judgment, been corrected;

(4) Terminate this Agreement as respects the delivery of Operator's Gas into NFGDC's facilities at the affected Receipt Point(s) in the event that, in NFGDC's reasonable judgment, the occasion for NFGDC's exercise of a remedy cannot be corrected at a reasonable cost in a reasonable time;

(5) Require Operator to cease receiving into Operator's facilities production attributable to the source which occasioned NFGDC's exercise of a remedy; and

(6) Clean-up and/or repair, at Operator's sole cost and expense, all facilities, equipment and apparatus affected by the occasion for NFGDC's exercise of a remedy. NFGDC shall endeavor to notify the Operator prior to taking such remedial action.

ARTICLE V.

CHART CHANGES AND INDEX READINGS

(A) Operator shall, at its own cost and expense, (i) change the charts on each orifice meter associated with the Exhibit A Receipt Points (the "Charts"), on the first (1 st) working day of each month, (ii) mail the removed Charts to NFGDC on or before the fifth (5th) working day of each month (iii) change the Charts regulariy, once each seven (7) day period following said first (1st) working day, or on a 3 l-day cycle in the case of 3 1-day charts, and (iv) mail these removed Charts to NFGDC within three (3) working days of each such chart change.

(B) Insofar as applicable, Operator shall, at its own cost and expense, read each displacement meter associated with any Exhibit A Receipt Point on the first (1 st) working day of each month and shall mail, or , with confirmed receipt, e-mail or fax all such index information to NFGDC on or before the fifth (5th) working day of each month.

(C) All charts and all index information shall be addressed to "NATIONAL FUEL GAS DISTRIBUTION CORPORATION, GAS MEASUREMENT DEPARTMENT, ROOM 1, P.O. BOX 2081, 1100 STATE STREET, ERIE, PENNSYLVANIA 16512.

(D) Operator understands that NFGDC is not able to account for and/or allocate Operator's Gas without using the Chart or index information (as the case may be) referred to in this Article. Accordingly, given (i) the incremental expense and other costs which will be incurred by NFGDC in the event of its tardy receipt of the Chart or index information referred to in this Article; (ii) the difficulty of quantifying such costs and expenses, and (iii) the inconvenience and practical infeasibility of otherwise providing an adequate remedy in respect of Operator's breach of its undertakings expressed in this Article, it is agreed as follows:

In the event that either of the following conditions are met, to wit: (i) Operator shall fail to mail any Chart or index information as stipulated in this Article, or (ii) NFGDC shall fail to receive said Chart or index information on or before the fifth (5th) working day following the mailing date stipulated in this Article, then NFGDC shall be relieved of any obligation to account for any of the production in a timely manner but will endeavor to account for such production in the next accounting period.

ARTICLE VI.

TERM

(A) This Agreement shall have no force or effect unless and until it shall have been executed by each of the parties identified on the first page hereof and by each of the parties identified in the Addendum thereto, if any (the "Effective Date"). Thereafter, and unless and until NFGDC shall have notified each of the other parties who executed this Agreement (the "Non-NFGDC Parties") that all applicable gas disposition agreements have become effective, no right or entitlement shall accrue to any Non-NFGDC Party due to the execution of this Agreement.

(B) The term of this Agreement shall extend until the first anniversary of the Effective Date, and, unless otherwise lawfully terminated, this Agreement shall continue in effect thereafter, until the same is terminated by any party to this Agreement, if any, by written notice to all other such parties, no later than thirty (30) days prior to the beginning of a calendar month.

(C) Notwithstanding any other provision of this Agreement, and in addition to any other right or remedy available to NFGDC hereunder or under any provision of law, NFGDC shall have the following rights, exercisable at NFGDC's sole option, to wit:

(1) Terminate this Agreement and remove all Receipt Facilities at the Exhibit A Receipt Points, *or* suspend or cease receiving Operator's Gas at any one or more of the Exhibit A Receipt Points, upon thirty (30) days' prior written notice to Operator, in the event that Operator should for any reason experience a loss or cancellation of the security required to be provided by Operator pursuant to Article IX hereof; and

(2) Terminate this Agreement as to the affected Receipt Point(s) and remove all Receipt Facilities at the affected Receipt Point(s), or suspend or cease receiving Operator's Gas at any affected Receipt Point(s), upon thirty (30) days' prior written notice to Operator, in the event that Operator should (i) fail to provide satisfactory title to the production or (ii) repeatedly violate, in NFGDC's sole opinion, the standards contained in Article IV.

ARTICLE VII.

GOVERNMENTAL REGULATION

This Agreement and the respective obligations of the parties hereunder shall be subject to all valid applicable federal, state and local laws, orders, rules and regulations, whether in effect on the date hereof, or becoming effective thereafter. The parties shall be entitled to regard all laws, orders, rules and regulations issued by any federal, state or local regulatory or governmental body as valid and may act in accordance therewith until such time as same shall have been invalidated by final judgment (no longer subject to judicial review) of a court of competent jurisdiction. Neither party shall be held in default for failure to perform hereunder if such failure is due to compliance with laws, orders, rules or regulations of any such duly constituted authorities. Nothing contained herein however, shall be construed as affecting any party's right(s) to contest the validity or applicability of any such law, order, rule or regulation.

ARTICLE V-III.

FORCE MAJEURE

(A) In the event either NFGDC or Operator is rendered unable, in whole or in part, by force maieure to carry out their respective obligations under this Agreement, other than to make payments due hereunder or to maintain minimum gas quality specifications, it is agreed that the obligations of the party claiming such inability *to* perform, so far as they are affected by such force maieure, shall be suspended from the inception of and during the continuance of such inability so caused but for no longer period; provided that the party claiming such inability gives notice and reasonably full particulars of such force maieure event relied upon; and provided further that the party claiming such inability shall promptly and diligently take such action as may be necessary and reasonably practicable to correct, or cause to be corrected, such inability.

(B) The term "force maieure" as empioyed herein shall mean without limitation, acts of God, Governmental action or regulation, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, storms, storm warnings, floods, washouts, arrests and restraints of governments and people, civil disturbances, explosions, breakage or accidents to machinery or pipelines, the necessity for making repairs to or alterations of machinery or pipelines, freezing of pipelines, and any other causes, whether of the kind herein enumerated or otherwise, not under or within the control of the party claiming inability to perform and which, by the exercise of reasonable diligence, such party is unable to prevent or overcome.

(C) The settlement of strikes, lockouts or any such labor disputes shall be entirely within the discretion of the party having the difficulty, and the above requirement that any force maieure event shall be remedied promptly and diligently shall not require the settlement of strikes, lockouts or other labor disputes by acceding to the demands of any opposing party when such course is inadvisable in the discretion of the party having the difficulty.

(D) Force maieure shall not include failure or disruption of technical systems or products within the reasonable control of the party claiming force maieure which arise as a result of any leap year.

ARTICLE IX.

NOTICE

(A) Every notice, request, statement, bill or invoice provided for in this Agreement shall be in writing, unless otherwise provided herein and shall be sent by prepaid mail, facsimile, or by overnight delivery, addressed to the party to whom given, at such party's address stated below, or at such other address as such party may in and by such notice direct hereafter. Facsimile notices, requests, statements, bills or invoices shall be deemed given only when facsimile receipt is confirmed.

Notice shall be sent:

(1) To NFGDC:

NATIONAL FUEL GAS DISTRIBUTION CORPORATION
Gas Supply Administration Department
1100 State Street
P.O. Box 2081
Erie, Pennsylvania 165 12
24-Hour Telephone: (800) 444-3130 EMERGENCIES ONLY
Facsimile: (814) 871-8624

(2) To Operator:

____
____
____
24-Hour Telephone: ____________________
Facsimile: ________________________

(B) Operator shall provide NFGDC with a current telephone number, facsimile number and address at which Operator or Operator's representatives may be contacted at all hours. For themselves and their agents, NFGDC and Operator agree to the recording of all telephone conversations during which NFGDC notifies Operator to suspend or cease deliveries into any facility owned or operated by NFGDC.

ARTICLE X

OPERATOR S CREDITWORTHINESS

(A) At its sole option, NFGDC may (i) suspend its receipt of Operator's Gas, or (ii) terminate this Agreement, in the event that Operator is or has become insolvent or fails within a reasonable period, upon NFGDC's request, to demonstrate creditworthiness, or in the event that Operator incurs a poor credit history with respect to any service provided by NFGDC or as established by a reliable reporting agency.

(B) As a demonstration of Operator's creditworthiness and as security in respect of any remedy afforded NFGDC under this Agreement or under any provision of law, Operator agrees to provide NFGDC, prior to the Effective Date, and to keep in force throughout the term of this Agreement, any one of the following:

(1) A security deposit in the amount of Ten Thousand Dollars ($10,000), to be held in a non-interest-bearing general account by NFGDC;

(2) An irrevocable letter of credit issued by a financial institution acceptable to NFGDC and in a form acceptable to NFGDC with a face amount of Ten Thousand Dollars ($10,000); or

(3) At NFGDC's sole discretion, a copy of the most recent audited financial statements of Operator (or of a guarantor of Operator's performance hereunder) showing a net worth in excess of Thirty Thousand Dollars ($30,000), or a copy of the most recent unaudited financial statements of Operator (or of a guarantor of Operator's performance hereunder) showing a net worth of at least Forty Thousand Dollars ($40,000), in which event, Operator shall also provide NFGDC with evidence of its ownership of unencumbered assets valued, in the aggregate, in excess of Ten Thousand Dollars ($10,000) in each state in which Operator conducts any business with NFGDC.

(4) Security, in a form acceptable to NFGDC, provided on behalf of Operator by a creditworthy third party, including but not limited to a marketer, individual, or other entity.

(C) NFGDC reserves the right to require Operator to establish or demonstrate its creditworthiness, from time to time, during the term of this Agreement.

ARTICLE XI.

TITLE TO GAS

(A) Nothing in this Agreement shall affect the title to Operator's Gas.

(B) Operator shall indemnify NFGDC against, and hold it harmless from, and undertake the defense of NFGDC with respect to, all suits, actions, claims, debts, accounts, damages, costs, losses and expenses (including attorneys' fees) arising from or out of adverse claims of any and all persons or entities to Operator's Gas, or to royalties, overriding royalties or other payments with respect thereto, or to taxes, licenses, fees, or charges with respect to Operator's Gas or the disposition thereof (hereinafter, respectively "Adverse Claim To Operator's Gas"). Except insofar as Operator is in breach of its obligations or has an obligation to indemnify and save NFGDC harmless pursuant to this section XI (B), NFGDC agrees to indemnify and save Operator harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising out of adverse claims of any and all persons to the natural gas after receipt by NFGDC of Operator's gas for redelivery by NFGDC (whether by means of transportation service or NFGDC commodity service) according to NFGDC's tariff

(C) In the event of any Adverse Claim To Operator's Gas, NPGDC may, at its sole discretion, suspend receipts of Operator's Gas at the Receipt Point(s) where the affected gas is delivered into NFGDC's facilities (without incurring any liability to Operator or any other entity interested in Operator's Gas) until such claim is finally determined and the prevailing party(ies) agree(s) to be bound by this Agreement, or until Operator furnishes NFGDC a bond, in form and amount and with sureties acceptable to NFGDC, conditioned to hold NPGDC harmless from any such Adverse Claim To Operator's Gas, or until Operator demonstrates, to NFGDC's satisfaction, that such gas subject to an adverse claim does not constitute any portion of Operator's Gas

(D) Operator agrees to provide NFGDC, upon request, evidence reasonably satisfactory to NFGDC of Operator's right to handle and deliver into NFGDC's facilities, one hundred percent (100%) of the gas comprising Operator's Gas.

ARTICLE XII.

REMEDIES

In addition to any other remedy available to NFGDC under this Agreement or any provision of law, Operator shall indemnify NFGDC against, hold it harmless from, and undertake the defense of NFGDC with respect to all suits, actions, claims, losses, damages (including punitive damages and economic losses), injuries (including personal injury and death), debts, accounts, costs and expenses (including attorneys' fees and other expenses incurred by NFGDC in responding to, and in partial or full satisfaction of, any such suits, actions, claims, losses, damages and injuries) related to and/or arising from or out of any breach by Operator of any provision of this Agreement.

ARTICLE XIII.

MISCELLANEOUS

(A) This document shall not be construed as an agreement running with the land.

(B) No change, modification or alteration of this Agreement shall be or become effective until executed in writing by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof, except as expressly stated herein.

(C) No waiver by any party of any one or more defaults by the other in the performance of any provision of this Agreement shall operate or be construed as a waiver of any other default or defaults, whether of a like or of a different character.

(D) Not less than five (5) working days prior to the first day of each calendar month during the term of this Agreement, Operator shall notify NFGDC in writing of the identity of the entity and person who shall perform nominations in respect of Operator's Gas at each of the Exhibit A Receipt Points. In the absence of Operator's timely notification to this effect, NFGDC may (but shall not be obligated to) deem the authority of the entity and person identified in Operator's last previous timely notification to continue until its receipt of the Operator's next timely notification under this paragraph.

(E) Any company which shall succeed by purchase, merger or consolidation of the gas related properties, substantially as an entirety, of NFGDC or of Operator, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement. Either party may, without relieving itself of its obligations under this Agreement, assign any of its rights hereunder to a company with which it is affiliated, but otherwise, no assignment of this Agreement or of any of the rights or obligations hereunder shall be made unless there first shall have been obtained the consent thereto in writing of the other party. Consent shall not be unreasonably withheld.

(F) The headings contained in this Agreement are intended solely for convenience and do not constitute any part of the agreement between the parties and shall not be used in any manner in construing this Agreement.

(G) This Agreement shall be construed, enforced and interpreted in accordance with the laws of the State of New York excluding, however, any such law which would direct the application of the law of another jurisdiction. The parties (i) submit to the jurisdiction of the United States District Court for the Western District of New York and, in the event that such court lacks subject matter jurisdiction, to the New York State Supreme Court, Erie County, and, as respects those matters which are subject to the exclusive or primary jurisdiction of the Public Service Commission of the State of New York to that Commission, and (ii) waive any right or entitlement which they or any of them might otherwise have to cause any dispute arising under this Agreement to be adjudicated, determined or resolved pursuant to the law of any other jurisdiction, or, in or by any other court(s) or tribunal(s). Provided, however, that the parties may bring disputed matters before the Public Service Commission of the State of New York according to dispute resolution procedures under NFGDC's Interconnection Rules and Procedures approved by the Public Service Commission of the State of New York and set forth in NFGDC's Gas Transportation Operating Procedures Manual.

(H) So that there will be certainty as to the actual agreement between the parties, it is mutually understood and agreed that this Interconnection Agreement and the Exhibit A attached hereto, as the same may be impacted by any applicable provision of NFGDC's Tariff and the Interconnection Rules and Procedures, are intended to constitute the final expression, as well as the complete, exclusive and integrated statement, of the terms of the parties' agreement relative to the interconnection and other transactions described therein.

(I) No presumption shall operate in favor of or against either party hereto as a result of any responsibility either party may have had for drafting this Agreement.

(J) This document and the agreement memorialized thereby shall be without force and effect unless all of the parties identified on the first page of this document (and on the first page of the Addendum to this document, if any) shall have fully executed the same prior to ______________________________, as evidenced by duplicate or counterpart originals thereof which are in NFGDC's possession prior to five o'clock p.m. (5:OO p.m.) Eastern Time on that date.

(OPERATOR)	NATIONAL FUEL GAS DISTRIBUTION CORPORATION
BY ______________________	By: ______________________
Name: ______________________	Name: ______________________
Title: ______________________	Title: ______________________
Date: ______________________	Date: ______________________

Interconnection Rules & Procedures

Rules

1. The interconnection applicant is responsible for all reasonabie incremental costs.

2. The Company shall not unreasonably restrict, constrain or deny application for or operation of an interconnection if the applicant meets the rules for such service. Provided, however, that the operation of interconnections may be restricted or constrained by the Company in furtherance of and to the extent of the Company's obligations and requirements to manage system flows, dispatching and reliability needs. The Company shall not provide any advantages, services, or competitive information to an affiliate or other entity that is not provided contemporaneously and in a similar manner to others similarly situated.

3. Interconnection procedures may distinguish among interconnections with producers, interstate pipelines, and intrastate pipelines and gatherers to the extent such distinctions are technically or operationally justified.

4. The tariff shall provide that the Company will respond within 30 days of any application for an interconnection point and the response will either accept the request or will describe modifications required to accept the application.

5. General technical, operational and engineering specifications are to be provided in the Procedures Manual within 30 days of the Commission's approval of the Joint Proposal. More detailed requirements unique to the application may be set forth in the Interconnection Agreement.

6. Any party may complain to the Commission for resolution of a problem under these rules. Any party may also raise concerns in confidence to the Department of Public Service ("Department") but the nature of those concerns may be disclosed to Distribution at the Department's discretion. The Interconnection Agreement and these rules are subject to modification by the Commission upon notice as provided by law. The parties agree that Distribution maintains all of its rights under federal and state constitutional, statutory and case law.

Interconnection Procedures

1. The applicant will submit the application for interconnection service. The application must at a minimum describe gas flows on the interconnecting system.

2. The applicant must agree to some form of creditworthiness to the extent appropriate for the service being provided.

3. Distribution will provide a written response to the applicant within 30 days of receipt of an application. The response will provide an estimate of the cost of the work requested and the time of completion or, if necessary, request more information concerning the request. The Company's response will contain an estimated completion date. If the Company determines that it cannot meet the estimated completion date, it shall notify the applicant and provide an explanation together with a new estimate of the completion date.

4. The Interconnection Agreement will be executed by the parties before the Company orders equipment and work is commenced.

5. If requested by the applicant, the Company will schedule field meetings within 60 days of receipt .of the fully completed application, unless field information is needed to complete the application.

6. Payment will be submitted to Distribution before construction commences.

7. Upon completion of the interconnection, gas will be accepted to flow if it meets the standards for service requested.

SERVICE QUALITY PERFORMANCE MECHANISM

DESCRIPTION OF THE PERFORMANCE MEASURES

There shall be the following performance measures:

INCENTIVE 1 – CUSTOMER SATISFACTION -RESIDENTIAL

The Customer Satisfaction measure is determined by the overall annual customer satisfaction index as reported in the Company's on-going customer contact satisfaction survey of residential customers. This index will be taken from the annual survey report covering the 12 months ended September 30 of each year.

INCENTIVE 2 – CUSTOMER SATISFACTION – NON-RESIDENTIAL

The Customer Satisfaction measure is determined by the overall annual customer satisfaction index as reported in the Company's on-going customer contact satisfaction survey of non-residential customers. This index will be taken from the annual survey report covering the 12 months ended September 30 of each year.

INCENTIVE 3 – CUSTOMER PSC COMPLAINTS

The Customer PSC Complaints incentive measures the number of PSC complaints per 100,000 utility customers. The complaint rate will be developed from the total number of PSC complaints from customers, as adjusted for complaints changed to inquiries, during the 12 months ended September 30 of each year.

INCENTIVE 4 – APPOINTMENTS

The Appointments performance incentive measures the total number of appointments kept between the customer and the Company for non-emergency field work. An appointment is considered kept if the Company *meets* its commitment even if the customer, does not. Measurements are based on completion time data on an a.m./pm. basis each day for a.m./p.m. appointments or on a daily basis for daily appointments. Included within this measure are appointments for meter locks and unlocks. meter reading verities. and miscellaneous non-emergency service and appliance check requests. The appointment statistics are automatically compiled each month from the Company's Customer Service Order ("CSO") system and reported to the Quality Assurance Department

INCENTIVE 5 – NEW SERVICE INSTALLATIONS

The New Service Installation performance incentive measures the percentage of new service line installations, which are completed within ten calendar days of the customer becoming ready to receive service. Readiness is determined by the removal of all "holds" from the customer's new service line record, including construction holds and financial holds. The Company during the ten-day window arranges underground locating services. The completion information is automatically compiled each month from the Company's Service Line System and reported to the Quality Assurance Department.

INCENTIVE 6 – TELEPHONE RESPONSE

The Telephone Response incentive measures the number of telephone calls answered within 30 seconds by a Company representative. expressed as a percentage of the total number of telephone calls answered (the "Service Level"). The Service Level is measured monthly at each of the Company locations in New York which accept telephone calls. The individual Service Levels are combined into a composite Service Level for the Company's New York Division and reported to the Quality Assurance Department. The Telephone Response incentive includes all telephone calls received at either a Customer Assistance Center ("CAC") or the Customer Response Center ("CRC") during the hours of 7:00 am through 7:00 p.m., Monday through Friday.

INCENTIVE 7 - ADJUSTED BILLS

The Adjusted Bills performance incentive measures the total number of adjusted bills. expressed as a percentage of the total number of bills rendered. If more than one bill is rendered for the same billing cycle in order to correct a previously rendered bill for service, the second and subsequent bills are considered adjusted bills. The number of adjusted bills is automatically compiled each month from the Company's Customer Information System ("CIS") and is reported to the Quality Assurance Department.

INCENTIVE 8 -ESTIMATED READINGS

The Estimated Readings performance incentive measures the total number of estimated meters expressed as a percentage of the total number of meters scheduled to be read The number of estimates in scheduled read months is compiled each month from the Company's billing system and provided to the Quality Assurance Department

ANNUAL INCENTIVE PERIOD

The Annual Incentive Period for the Second Fiscal Year will begin on October 1.200 1 and end on September 30, 2002. The Annual Incentive Period for the Third Fiscal Year will begin on October 1.2002 and end on September 30.2003. In the event that a new fiscal year is established before the expiration of this settlement term, the Service Quality Performance Mechanism will continue in effect through September 30, 2003.

DETERMINATION OF PERFORMANCE MECHANISM PENALTY

The Company is subject to a maximum penalty of $1.5 million based on measured performance in the customer service areas described above. Any actual penalty will be based on the Company's performance at the end of the Annual Incentive Period as measured pursuant to the achievement scales shown on page 4 of this Appendix. Penalty Units will be combined across all incentive measures.

QUARTERLY REPORTING

The Company will provide Staff with a quarterly report of the performance mechanism results The report will include monthly information for each month in the quarter. The following report schedule will be observed:

Due	Report Period
January 20	October - December
April 20	January - March
July 20	April - June
October 20	July - September

EXTRAORDINARY EVENTS

The performance mechanism is expressly intended to operate under known and reasonably anticipated circumstances. Should an extraordinary event beyond the Company's control change those circumstances, then Staff and the Company agree to reexamine the performance mechanism and make modifications, adjustments or other amendments as necessary to serve the purposes intended herein If the matter is not resolved informally, it is agreed that the issues in dispute shall be resolved through the Dispute Resolution Process under Section ILH. of this Joint Proposal.

PERFORMANCE MEASURE REASSESSMENT

The performance mechanism measures are effective through September 30, 2003. In the event of altered circumstances, a performance measure is rendered meaningless or obsolete, then the measure thus affected will either be replaced or eliminated according to mutual agreement

AUDITING

The Company will maintain and make available upon reasonable notification, documentation supporting the measurement of all performance measures. For those measures where data is automated, documentation may consist of summary information and may not necessarily involve detailed individual physical records.

NATIONAL FUEL GAS DISTRIBUTION CORPORATION
NEW YORK DIVISION
SERVICE QUALITY PERFORMANCE MECHANISM
ACHIEVEMENT SCALES & PENALTY UNITS

CRITERIA		ACHIEVEMENT SCALE	PENALTY UNITS
1.	**Residential Customer Satisfaction** Overall residential customer contact satisfaction percentage.	285.1 84.1 - 85.0 83.1-84 ≤83.0	0 -25 -50 -100
2.	**Non-Residential Customer Satisfaction** Overall non-residential customer contact satisfaction percentage.	286.0 83.3 - 85.9 80.6 - 83.2 580.5	0 -25 -50 -100
3.	**Customer Complaints** The number of Commission complaints per 100,000 customers.	<8.0 8.0 - <8.5 8.5 - <9.0 9.0 - <9.5 29.5	0 -25 -50 -75 -100
4.	**Appointments** The percentage of non-emergency appointments kept	≥98 97.0 - 97.9 96.0 - 96.9 195.9	0 -25 -50 -100
5.	**New Service Installations** The percentage of new service line installations completed within ten calendar days.	298 97.0 - 97.9 96.0 - 96.9 195.9	0 -25 -50 -100
6.	**Telephone Response** The number of calls answered within 30 seconds, expressed as a percentage of the total calls answered.	274 72.0 - 73.9 70.0 - 71.9 169.9	0 -25 -50 -100
7.	**Adjusted Bills** The total number of adjusted bills rendered expressed as a percentage of the total number of bills rendered.	≤1.9 2.0 - 2.4 ≥2.5	0 -50 -100
8.	**The Estimated** total number **Meter** of **Readings** estimated reads expressed as a percentage of the total number of meters scheduled to be read.	17.(≤16.9-19.4 19.5 - 21.9 222.0	-25 0 -50 -100

Overall Score
Penalty Unit - Penalty Assessment

Penalty Units	Penalty Assessment
0 – (160)	$0
(161) – (320)	$350,000
(321) – (480)	$750,000
(481) – (640)	$1,150,000
(641) – (800)	$1,500,000

SAFETY PERFORMANCE MEASURES

A. Types of Safety Performance Measures

1. Damage Prevention
2. Gas Emergency Response
3. Quality Assurance/Quality Control
4. Bare Steel Replacement/Reduction

B. Performance Measures for Fiscal Year 2002

1. Damage Prevention: Total 6 Penalty Units

Failure to respond to locate requests prior to the stated commencement date of a project on three or more occasions will be considered non-attainment and the Company will be assessed 2 Penalty Units. The total will be derived from actual citations issued by Staff.

Failure to implement a computerized ticket management system will be considered non-attainment and the Company will be assessed 2 Penalty Units.

Failure of the Company to demonstrate through documentation in any area below will be considered non-attainment and the Company will be assessed 2 Penalty Units.

- Review and analyze each third party facility damage for the cause.
- Recommend corrective actions to prevent future damages.
- Trend facility damage by cause for each year of the agreement.

2. Gas Emergency Response: Total 2 Penalty Units

Failure of the Company's on-site response to gas emergency calls to meet any of the following standards will be considered non-attainment and the Company will be assessed 2 Penalty Units.

- Response to 75% of All Gas Leak and Odor Calls within 30 minutes.
- Response to 90% of All Gas Leak and Odor Calls within 45 minutes.
- Response to 95% of All Gas Leak and Odor Calls within 60 minutes.

*By mutual agreement with the Department of Public Service Gas & Water Director and designated Company officer, certain "Gas Emergencies" can be declared exempt from the performance standard.

3. Quality Assurance/Quality Control: Total 2 Penalty Units

The Company has a Quality Assurance Department that oversees and monitors their overall program for compliance with safety codes, construction activities and operating procedures.

The Company's program charges local service center management with the responsibility for implementing and monitoring quality assurance for daily operations. This includes documenting their reviews/assessments periodically throughout the year.

The Quality Assurance Department has oversight responsibility which includes developing inspection plans to evaluate the effectiveness and compliance of each service center program with its policies operating and maintenance procedures and construction standards. This includes evaluation of records, direct field observations of employees and contractor employees for compliance with codes and Company procedures. It also includes evaluating the District Manager's records of their internal quality reviews to ensure the program is being implemented.

Reports are generated by the Quality Assurance Department throughout the year and at year's end. They issue an annual report to Senior Management identifying their activities, findings and recommendations.

- Failure of the Company to develop written guidelines, acceptable to Staff and Company, for developing audit schedules will be considered non-attainment and the Company will be assessed 2 Penalty Units.

4. Bare Steel Replacement/Reduction: Total 6 Penalty Units

This performance measure prescribes the reduction of 100 miles of bare steel inventory over a two-year period commencing October 1, 2001 and concluding September 30, 2003.

- The Company shall reduce its inventory of bare steel mains by 50 miles in the fiscal year. The failure to accomplish a reduction of bare steel mains by 50 miles in the fiscal year shall result in a penalty of 6 Penalty Units in that fiscal year.

- In the event that the reduction of steel mains shall be less than 50 miles in the fiscal year, the Company may avoid the penalty if it can provide a demonstration to the Director of Gas & Water that circumstances beyond the Company's control prevented it from attaining the goal. In that event, the penalty shall not be assessed, however, the mileage reduction requirement shall be carried over into the next fiscal year and combined with that year's bare steel reduction requirement for purposes of determining the 6 Penalty Units penalty in that year. (For example, if the Company makes the requisite demonstration that circumstances beyond it control resulted in a reduction of only 46 miles in year one, the Company would avoid the penalty in that year. In the following year, however, if the Company reduced bare steel mains by 50 miles, the cumulative two-year total would be only 96 miles instead of the requisite 100 cumulative miles. In that event, the Company would have avoided the 6 Penalty Units penalty in year one, but would incur the 6 Penalty Units penalty in year two because it failed to reach the cumulative 100 mile threshold in that year).

C. Performance Measures for Fiscal Year 2003

1. Damage Prevention: Total 6 Penalty Units

Failure to respond to locate requests, prior to the stated commencement date of a project, on three or more occasions will be considered non-attainment and the Company will be assessed 2 Penalty Units. The total will be derived from actual citations issued by Staff.

Failure to implement and utilize a computerized ticket management system will be considered non-attainment and the Company will be assessed 2 Penalty Units.

Failure of the Company to demonstrate through documentation in any area below will be considered non-attainment and the Company will be assessed 2 Penalty Units.

- Review and analyze each third party facility damage for the cause.
- Recommend corrective actions to prevent future damages.

- Trend facility damage by cause for each year of the agreement.

2. Gas Emergency Response: Total 2 Penalty Units

Failure of the Company's on-site response to gas emergency calls to meet any of the following standards will be considered non-attainment and the Company will be assessed 2 Penalty Units.

- Response to 75% of All Gas Leak and Odor Calls within 30 minutes.
- Response to 90% of All Gas Leak and Odor Calls within 45 minutes.
- Response to 95% of All Gas Leak and Odor Calls within 60 minutes.

*By mutual agreement with the DPS Gas & Water Director and designated Company officer, certain "Gas Emergencies" can be declared exempt from the performance standard.

3. Quality Assurance/Quality Control: Total 2 Penalty Units

The Company has a Quality Assurance Department that oversees and monitors their overall program for compliance with safety codes, construction activities and operating procedures.

The Company's program charges local service center management with the responsibility for implementing and monitoring quality assurance for daily operations. This includes documenting their reviews/assessments periodically throughout the year.

The Quality Assurance Department has oversight responsibility which includes developing inspection plans to evaluate the effectiveness and compliance of each service center program with its policies operating and maintenance procedures and construction standards. This includes evaluation of records, direct field observations of employees and contractor employees for compliance with codes and Company procedures. It also includes evaluating the District Manager's records of their internal quality reviews for compliance with the overall program.

The Quality Assurance Department throughout the year generates reports and at year's end, they issue an annual report to Senior Management identifying their activities, findings and recommendations.

- Failure of the Company to document that Operating Procedures and Emergency Plans were reviewed will be considered non-attainment and the Company will be assessed .5 Penalty Units (i.e. $25,000).

- Failure of the Quality Assurance Department to develop and follow an annual inspection schedule and failure to conduct and document record and field assessments at each operating field office will be considered non-attainment and the Company will be assessed .5 Penalty Units

- Failure of the Company's Quality Assurance Department to conduct and document an assessment of the local districts quality audits, which are maintained by District Managers, will be considered non-attainment and the Company will be assessed .5 Penalty Units

- Failure of the Quality Assurance Department to issue an annual report of their activities, findings and recommendations to Senior Management at an officer level, will be considered non-attainment and the Company will be assessed .5 Penalty Units.

4. Bare Steel Replacement/Reduction: Total 6 Penalty Units

This performance measure prescribes the cumulative reduction of 100 miles of bare steel inventory over the two-year period commencing October 1, 2001 and concluding September 30, 2003.

- The failure of the Company to reduce its inventory of bare steel mains by 100 miles for the settlement period ending September 30, 2003 will result in an assessment of 6 Penalty Units. There are no provisions for avoiding the Penalty Unit assessment if the 100-mile reduction level is not attained.

INCENTIVE MECHANISM FOR OUTREACH AND EDUCATION

A. <u>**Specifics of Program**</u>

1. Purpose

The overall purpose of the customer Outreach and Education plan is to increase the awareness and understanding of competitive choice for residential and small commercial customers. The plan shall include the following concepts and messages:

-- Distribution is an active participant in the transition to a competitive natural gas market;
-- Choice of natural gas supplier is available;
-- Safety, reliability, and utility customer service are not affected if one switches;
-- Distribution will continue to provide emergency services to customers regardless of commodity supplier;
-- Distribution will not discriminate against customers who buy their commodity from another supplier;
-- How to make competitive choices and switch gas suppliers; and
-- The benefits and risks of customer choice.

2. Awareness and Understanding Survey

During February 2002, the Company will develop, in consultation with Staff. a survey to measure residential and small commercial customer awareness and understanding of gas competitive opportunities in Distribution's service territory ("baseline survey"). The baseline survey will separately measure the following four items:

-- residential customer awareness;
-- small commercial customer awareness;
-- residential understanding; and
-- small commercial understanding.

The baseline survey will be designed to achieve confidence levels of 95%. The residential and commercial results will be combined on a weighted basis, based on the number of residential and commercial customers, to produce separate weighted average results for awareness and understanding. The baseline survey and baseline survey results, related to measuring customer awareness and understanding, will be public, not proprietary information. The baseline survey will be completed by March 3 1, 2002 ("proposed completion date").

Distribution will circulate the draft baseline survey questions relating to customer awareness and understanding to interested Parties no later than 45 days prior to the proposed completion date. For questions to be used. Parties must agree on the questions by 30 days prior to the proposed completion date.

During the months of September 2002 and September 2003, Distribution will again conduct surveys to measure changes in the levels of customer awareness and understanding ("tracking surveys"). A report of all tracking survey results, related to measuring customer awareness and understanding of gas competitive opportunities, including raw results and computations, will be made available to the Parties and filed as part of the Company's annual earnings report. Any disagreements about Distribution's calculations that cannot be resolved by the Parties shall be referred to the Commission for resolution.

3. Annual Outreach and Education Plan

Distribution will incorporate the results of its survey into its annual Outreach and Education plan. The annual Outreach and Education plan will include:

a. A review of the previous year's outreach activities;

b. A review of the survey results; and

c. An Outreach and Education plan for the upcoming year. The plan will incorporate lessons learned from the survey. If there are areas where awareness and/or understanding are low or have declined Distribution will describe how the outreach plan will address these areas.

4. Funding

Based on the results of the baseline survey, Staff and the Company will evaluate the need to enhance the Company's Outreach and Education effort regarding customer awareness and understanding of natural gas choice. Media placement costs of up to $350,000 will be allowed subject to Staff's review for each of the Second and Third Fiscal Years to perform the Outreach and Education effort. Based on the results of the first tracking survey (September 2002) and the market, Staff and the Company will evaluate the need to further enhance the Company's Outreach and Education effort within the funding limits described herein.

B. Incentive Mechanism for Customer Awareness and Understanding

An incentive mechanism for customer awareness and understanding of gas competitive opportunities will be in effect during the term of the Joint Proposal.

Following the surveys in the years 2002 and 2003, Distribution will be awarded Incentive Units for the applicable period (where one Incentive Unit is equal to $25,000) up to a maximum of ten Incentive Units, calculated as described.

<u>Second Fiscal Year</u> (October 1, 2001 – September 31, 2002)

For each percentage point increase in <u>customer awareness</u> above the baseline year results, Distribution will be awarded an increase of "A" Incentive Units, up to a maximum of 5 Incentive Units.

$$\text{Factor "A"} = 5 / ((80 - X) * 1/2)$$

(where "X" equals the Baseline Year weighted average result for customer awareness)

For each percentage point increase in <u>customer understanding</u> above the baseline year results, Distribution will be awarded an increase of "B" Incentive Units, up to a maximum of 5 Incentive Units.

$$\text{Factor "B"} = 5 / ((70 - Y) * 1/2)$$

(where "Y" equals the Baseline Year weighted average result for customer understanding)

<u>Third Fiscal Year</u> (October 1, 2002 – September 31, 2003)

For each percentage point increase in <u>customer awareness</u> above the baseline year results, Distribution will be awarded an increase of "A" Incentive Units. up to a maximum of 5 Incentive Units.

$$\text{Factor "A"} = 5 / ((80 - X) * 2/2)$$

(where "X" equals the Baseline Year weighted average result for customer awareness)

For each percentage point increase in <u>customer understanding</u> above the baseline year results, Distribution will be awarded an increase of "B" Incentive Units, up to a maximum of 5 Incentive Units.

$$\text{Factor "B"} = 5 / ((70 - Y) * 2/2)$$

(where "Y" equals the Baseline Year weighted average result for customer understanding)

NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Affiliate Rules

1.0 Affiliate Relations - In General

1.1 National Fuel Gas Distribution Company ("NFGD") and National Fuel Gas Company's ("NFG")[1] other subsidiaries will be operated as separate entities.

1.2 Any transfer of assets or the provision of goods or services, other than tariffed services and corporate governance, administrative, legal and accounting services by NFGD to an unregulated subsidiary or an unregulated subsidiary to NFGD, will be pursuant to regulations of the Securities Exchange Commission ("SEC") and the Public Service Commission of New York ("PSC").

1.3 Cost allocation guidelines if amended and/or supplemented will be filed with the Director of the Office of Accounting and Finance of the Department of Public Service 30 days prior to becoming effective.

1.4 All cost allocations will be subject to review during rate proceedings.

2.0 Non-Discriminatory Application of Tariffed Services

2.1 NFGD shall apply its tariffs in a nondiscriminatory manner.

2.2 NFGD shall not apply a tariff provision in any manner that would give its affiliates an unreasonable preference over other parties with regard to matters such as scheduling, balancing, transportation, storage, curtailment, capacity release and assignment, or non-delivery, and all other services provided to its affiliates.

2.3 Tariff provisions cannot be waived by NFGD absent prior approval of the PSC.

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1 NFG holding company is registered as a holding company under the Public Utility Holding Company Act of 193 5.

2.4 If a tariff provision is not mandatory or permits discretionary waivers, NFGD shall grant the waivers without preference to its affiliates. NFGD shall apply the provisions of its Gas Transportation Operating Procedures Manual without preference to its affiliates.

2.5 NFGD shall process requests for distribution services promptly and in a nondiscriminatory fashion with respect to other requests received in the same or a similar period.

2.6 If NFGD provides a distribution service discount, fee waiver or rebate to customers of its affiliated marketer, NFGD shall offer the same distribution service discount, fee waiver or rebate to other similarly situated parties. Offers shall not be tied to any unrelated service, incentive or offer on behalf of either the natural gas distribution company or its affiliates.

3.0 Personnel

3.1 Unregulated affiliates will have separate operating employees.

3.2 Non-administrative operating officers of NFGD will not be operating officers of any of the unregulated subsidiaries.

3.3 Officers of NFG may be officers of NFGD.

3.4 Employees may be transferred between NFGD and an unregulated affiliate upon mutual agreement. Employees transferred to a marketing affiliate may not be reemployed by NFGD for a minimum of 12 months from the transfer date. Employees returning to NFGD from a marketing affiliate may not be transferred to a marketing affiliate for a minimum of 24 months from the date of return or in the case of a transfer to an unregulated affiliate, for a minimum of 12 months. The foregoing limitations will not apply to employees covered by a collective bargaining agreement.

3.5 NFGD will not restrict by any means the employment with marketers of employees of NFGD unless NFGD applies the same restriction to its affiliated marketer(s). NFGD may negotiate restrictive employment conditions in severance agreements with employees under which the employee, as a result of a bargained-for exchange, receives value.

3.6 The foregoing provision in no way restricts the loaning of employees from any affiliate to NFGD to respond to an emergency that threatens the safety or reliability of service to consumers. Nor does the foregoing provision restrict the "loaned and borrowed labor" arrangement traditionally maintained between NFGD and National Fuel Gas Supply Corporation ("NFGS") for routine system operational purposes.

3.7 The compensation of NFGD employees may not be tied to the performance of any of NFG's unregulated subsidiaries. However, the stock of NFG may be used as an element of compensation and the compensation of common officers of NFG and NFGD may be based upon the operations of NFG and NFGD.

3.8 The employees of NFG, NFGD, NFGS and the unregulated affiliates may participate in common pension and benefit plans.

4.0 Goods, Services and Transactions Between NFGD and Affiliates

4.1 NFGD shall justly and reasonably allocate to its affiliates the costs or expenses for general administration or support services provided to said entities.

4.2 NFGD shall not condition or tie the provision of any product, service or price agreement by it (including release of interstate pipeline capacity) to the provision of any product or service by its affiliates.

4.3 NFGD shall not give its affiliates preference over non-affiliated marketers in the provision of goods and services including processing requests for information, complaints and responses to service interruptions. NFGD shall provide comparable treatment in its provision of such goods and services without regard to a customer's chosen marketer.

4.4 NFGD and affiliated marketers shall not be located in the same building or share office structures or centralized computer and/or communication networks. The NFG Corporate Website and corporate-governance transactions (such as those performed for financial reporting purposes) are exempt from the restriction pertaining to joint use of centralized computer and/or communications network.

4.5 NFGD shall maintain separate books and records from its affiliates. Further transactions between NFGD and its affiliates shall not involve cross-subsidies. Any shared facilities shall be fully and transparently allocated between the distribution company and affiliates. NFGD's accounts and records shall be maintained such that the costs incurred on behalf of an affiliate may be clearly identified.

4.6 NFGD may provide other services to affiliates, except that NFGD may not use any of its marketing or sales employees to provide services to NFGS or an affiliated marketer. NFGS and the affiliated marketers shall compensate NFGD for the services of employees performing such services in accordance with the orders, rules and regulations of the SEC governing same.

4.7 NFGD's affiliates, including NFGS and any affiliated marketers may provide services to NFGD. subject to any applicable requirements of this PSC, the SEC and the Federal Energy Regulatory Commission.

4.8 Common propertyicasualty and other business insurance policies may cover NFG, NFGD, NFGS, and other affiliates. The costs of such policies shall be allocated among the entities in an equitable manner.

4.9 Notwithstanding the above, the Commission's Order on Rehearing in Case 98-G-0122 – Proceeding on Motion of the Commission to Review the Bypass Policy Relating to Pricing of Gas for Electric Generation dated June 29, 2001, and any additional review of that order, continues to control the issues resolved there.

5.0 Customer Information

5.1 Release of proprietary customer information relating to customers within NFGD's service territory shall be subject to the Uniform Business Practices ("UBPs") and. if required. prior authorization by the customer and subject to the customer's direction regarding the person(s) to whom the information may be released. If a customer authorizes the release of information to an affiliate and one or more of the affiliate's competitors, NFGD shall make that information available to the affiliate and such competitors on an equal and contemporaneous basis.

5.2 NFGD will not disclose to marketing or pipeline affiliates any customer or marketer information that it receives from a marketer, non-affiliated pipeline or gatherer, customer, or potential customer, which is not available from sources other than NFGD. Excluded from this restriction is operational information supplied to a pipeline affiliate necessary to implement changes in system operations.

5.3 Subject to customer privacy or confidentiality constraints, NFGD shall not disclose, directly or indirectly, any customer proprietary information to its affiliate unless authorized by the customer or the UBPs.

6.0 Customer Communications

6.1 NFGD shall not directly or by implication, represent to any customer, natural gas supplier or third party that an advantage may accrue to any party through use of NFGD's affiliates, such as:

a. That the PSC regulated services provided by NFGD are of a superior quality when such services are purchased from its affiliated marketer; or

b. That the commodity services (for natural gas) are being provided by NFGD when they are in fact being provided by an affiliated marketer;

c. That the natural gas purchased from a non-affiliated marketer may not be reliably delivered;

d. That natural gas must be purchased from an affiliated marketer in order to receive the PSC regulated services.

6.2 On a one-time basis NFGD shall disclose to all of its affiliated marketer's customers the distinction between the LDC and its marketing affiliate. NFGD will disclose the same information to new customers of its marketing affiliate in the anti-slamming letter required by the UBPs. Proposed disclosure language shall be distributed to the marketer signatories to this agreement and shall be subject to their approval.

7.0 Standards of Competitive Conduct

The following standards of competitive conduct shall govern NFGD's relationship with any energy supply and energy service affiliates:

7.1 There are no restrictions on affiliates using the same name, trade names, trademarks, service name, service mark or a derivative of a name, of NFG or NFGD, or in identifying itself as being affiliated with NFG or NFGD. However, NFGD will not provide sales leads for customers in its service territory to any affiliate and will refrain from giving any appearance that NFGD speaks on behalf of an affiliate or that an affiliate speaks on behalf of NFGD. If a customer requests information about securing any service or product offered within the service territory by an affiliate, NFGD may provide a list of all companies known to NFGD operating in the service territory who provide the service or product, which may include an affiliate, but NFGD will not promote its affiliate.

7.2 NFGD will not represent to any entity that an advantage may accrue to anyone in the use of NFGD's services as a result of that customer, supplier or third party dealing with any affiliate. This standard does not prohibit two or more of the unregulated subsidiaries from lawfully packaging their services.

7.3 All similarly situated customers, including but not limited to energy services companies and customers of energy service companies, whether affiliated or unaffiliated, will pay the same rates for NFGD's utility services. NFGD shall apply any tariff provision in the same manner if there is discretion in the application of the provision.

8.0 Enforcement of Standards

8.1 If any competitor or customer of NFGD believes that NFGD has violated the standards of conduct established in this section of the agreement, such competitor or customer may file a complaint in writing with NFGD. NFGD will respond to the complaint in writing within 20 business days after receipt of the complaint. Within 15 business days after the filing of such response, NFGD and the complaining party will meet in an attempt to resolve the matter informally. If NFGD and the complaining party are not able to resolve the matter informally, the matter will be subject to the Dispute Resolution Procedures in accordance with the UBPs.

8.2 Nothing in this section prevents the PSC from taking action to enforce its statutory obligations.

National Fuel Gas Distribution Corporation
New York Division
Calculation of **LAUF** Incentive Gain(Loss)

		12 Months Ended **8/1999**	12 Months Ended **8/2000**	12 Months Ended **8/2001**		
A)	**Calculation of LAUF Financial Gain(Loss)**					
1)	LAUF Volume **Gain(Loss)**	649,024.90	57,992.76	288,439.27	Mcf	Line (1 I)
2)	Average Commodity Rate	$ 2.2879	$ 3.2453	$ 6.1255	/Mcf	Line (8)
3)	LAUF Financial Gain(Loss)	$ 1,484,926	$ 188,204	$ 1,766,827		Line (1) x Line (2)
B)	**Calculation of Average Commodity Rate**					
4)	Actual Commodity Gas cost	$ 146,652,432.00	$192,278,321 .00	$382,770,059.00		Actual total commodity cost of gas for the reconciliation period.
5)	Per Book Total Purchase Volumes	63,668,631	59,205,144	62,265,882	Mcf	Total system purchases including GAC and Non-GAC customers.
6)	Transportation LAUF Variance	429,551.10	43,063.24	222,346.73	Mcf	Line (21)
7)	Adjusted Actual Volumes	64,098,182	59,248,207	62,488,229	Mcf	Line (5) + Line (6)
8)	Average Commodity Rate	$ 2.2879	$ 3.2453	$ 6.1255	/Mcf	Line (4) I Line (7)
C)	**Calculation of LAUF Volume Gain(Loss)**					
9)	Allowed Purchases	61,583,279.00	56,192,364.00	59,798,233.00	Mcf	Line (14)
10)	Adjusted Actual Purchases	60,934,254.10	56,134,371.24	59,509,793.73	Mcf	Line (18)
11)	LAUF Volume Gain(Loss)	649,024.90	57,992.76	288,439.27	Mcf	Line (9) - Line (10)

National Fuel Gas Distribution Corporalion
New York Division
Calculation of LAUF Incentive Gain(Loss)

	12 Months Ended 8/1999	12 Months Ended 8/2000	12 Months Ended 8/2001		
D) Calculatlon of Allowed Purchases					
12) Actual GAC Sales	60,159,102	54,899,941	58,602,268	Mcf	Actual GAC sales for the reconciliation period.
13) LAUF Sales Factor	1.02367	1.02354	1.0204 1		Prorated LAUF Sales Factor for the reconciliation period. Equal to 1/(1-GAC LAUF %).
14) Allowed Purchases	61,583,279	56,192,364	59,798,233	Mcf	Line (12) x Line (13)
E) Calculatlon of Adjusted Actual Purchases					
15) Actual Purchases	60,406,951	56,158,612	59,194,366	Mcf	Actual purchases for customers subject to the GAC
16) Banked Gas Change	97.752	(67,304)	93.061	Mcf	Change in Banked Gas for transportation customers during the reconciliation period
17) Transportation LAUF Variance	429,551.10	43,063.24	222,346.73	Mcf	Line (21)
18) Adjusted Actual Purchases	60,934,254	56,134,371	59,509,794	Mcf	Line (15) + Line (16) + Line (17)

National Fuel Gas Distribution Corporation
New York Division
Calculation of LAUF Incentive Gain(Loss)

	12 Months Ended 8/1999	12 Months Ended 8/2000	12 Months Ended 8/2001		
F) Calculation of Transportation LAUF Variance					
19) Transportation Receipts	43,637,434.00	49,777,116.00	47,156,575.00	Mcf	Line (24)
20) Adjusted Transportation Requirements	43,207,882.90	49,734,052.76	46,934,228.27	Mcf	Line (27)
21) Transportation LAUF Variance	429,551.10	43,063.24	222,346.73	Mcf	Line (19) - Line (20)
G) Calculation of Transportation Receipts					
22) Transportation Customer Deliveries	42,654,822	48,644,877	46,220,828	Mcf	Deliveries to transportation customers during the reconciliation period.
23) LAUF transportation factor	1.02304	1.02328	1.02025		Weighted average LAUF factor for transportation customers. Equal to 1/(1-Transportation LAUF %).
24) Transportation Receipts	43,637,434	49,777,116	47,156,575	Mcf	Line (22) x Line (23)
H) Calculation of Adjusted Transportation Requirements					
25) Transportation Customer Deliveries	42,654,822	48,644,877	46,220,828	Mcf	Line (22)
26) Throughput LAUF Factor	1.28%	2.19%	1.52%		Line (30)
27) Adjusted Transportation Requiremenls	43,207,882.90	49,734,052 76	46,934,228.27	Mcf	Line (25) / (1- Line(26))

National Fuel Gas Dislribufion Corporation
New York Division
Calculation of LAUF Incentive Gain(Loss)

		12 Months Ended 8/1999	12 Months Ended 8/2000	12 Months Ended 8/2001		
I)	**Cafcufatfon of Throughput LAUF Factor**					
28)	Throughbut LAUF	1,328,213.00	2.323.606.00	1,620,926.00	Mcf	Line (37)
29)	Total System Receipts	104,142,137.00	105,868,424.00	106,444,022.00	Mcf	Line (34)
30)	Throughput LAUF Factor	1.20%	2.19%	152%		Line (26) / Line (29)
J)	**Calculation of Total System Receipts**					
31)	Actual Purchases	60,406,951.OO	56,158,612.00	59,194,366.00	Mcf	Line (15)
32)	Banked Gas Change	97,752.00	(67,304.00)	93,061 .oo	Mcf	Line (16)
33)	Transportation Receipts	43,637,434.00	49,777,116.00	47,156,575.00	Mcf	Line (24)
34)	Total System Receipts	104,142,137.00	105,868,424.00	106,444,022.00	Mcf	Line (31) + Line (32) + Line (33)
K)	**Calculation of Throughput LAUF**					
35)	Total System Receipts	104,142,137.00	105,868,424.00	106,444,022.00	Mcf	Line (34)
36)	Total Throughput Deliveries	102,813,924.00	103,544,818.00	104,823,096.00	Mcf	Line (40)
37)	Throughput LAUF	1,328,213.00	2,323,606.00	1,620,926.00	Mcf	Line (35) • Line (36)
L)	**Calculation of Total Throughput Deflveries**					
36)	Transportation Customer Deliveries	42,654,822.00	48,644,877.00	46,220,828.00	Mcf	Line (25)
39)	Actual GAC Sales	60,159,102.00	54,899,941.00	58,602,268.00	Mcf	Line (12)
40)	Total Throughput Deliveries	102,813,924.00	103,544,818 00	104.823.096.00	Mcf	Line (38) + Line (39)

National Fuel Gas Distribution Corporation

New York Division

Calculation of Unbundled Rates

	Residential - Service Classification 1			
	Minimum Charge	Next 4.6 Mcf	Over 5 Mcf	Note
Current Sales Rates				
1 Base Sales Rate	$ 14.16	$ 5.9029	$ 5.3698	Tariff Leaf 149
2 GAc 01/01/2002	$ 0.62	$ 1.5577	$ 1.5577	1/01/2002 GAC
3 Billed Sales Rate	$ 14.80	$ 7.4606	$ 6.9275	Line 1 • Line 2
4 Ease Cost of Gas	$ 1.26	$ 3.14976	$ 3.14976	
5 Non-Gas Cost	$ 12.92	$ 2.75314	$ 2.22004	Line 1 - tine 4
Unbundle d Delivery Charge -Sales and Small Volume Transportation Service (<5000 Mcf)				
6 Non-Gas Cost	$ 12.92	$ 2.75314	$ 2.22004	Line 5
7 Reserve Capacity Cost	a 0.06	$ 0.14180	$ 0.14180	Jan. 2002 Reserve Cap Cost
8 Total Base Delivery Charge	$ 12.98	$ 2.89494	$ 2.38184	Line 6 + Line 7
9 Take or Pay	$ (0.00)	$ (0.00110)	$ (0.00110)	I/01/2002 GAC
10 Transition Costs	$ 0.00	S 0.00260	$ 0.00260	110112002 GAC
11 R&D Funding Charge	$ 0.01	$ 0.01280	$ 0.01280	1/01/2002 GAC
12 Transibon Surcharge	$ 0.04	$ 0.09080	$ 0.09080	1/01/2002 GAC
13 Reserve Capacity Cost Adjustment	S-S	- $	•	TED monthly
14 Delivery Adjustment Charge	$ 0.04	$ 0.10510	$ 0.10510	Line 9 + 10 + 11 + 12 + 13
15 Total Gas Total Gas Distribution Charge	$ 13.02	$ 3.00004	$ 2.46694	Line 8 • Line 14
Unbundled Natural Gas Supply Charge -Sales Service				
16 Base Cost of Gas	$ 1.26	$ 3.14976	$ 3.14976	Line 4
17 Reserve Capacity Cost	$ 0.06	$ 0.14180	$ 0.14180	Line 7
18 Base Natural Gas Supply Cost	$ 1.20	$ 3.00796	$ 3.00796	Line 16 • Line 17
19 Natural Gas Supply Adjustment Charge	$ 0.58	$ 1.45260	$ 1.45260	Line 2 • Line 14
20 Total Natural Gas Supply Cost	$ 1.78	$ 4.46056	$ 4.46056	Line 18 + Line 19
21 Currant Billed Sales Rate	$ 14.80	$ 7.46060	$ 6.92750	Line 20 • Line 15
22 Check	s-s	- $	•	tine 21 • Line 3
23 Base Sales Rate	$ 14.16	$ 5.9029	$ 5.3698	Line 18 + Line 8
24 GAC	$ 0.62	$ 1.55770	$ 1.55770	Line 14 + Line 19

National Fuel Gas Distribution Corporation

New York Division

Calculation of Unbundled Rates

	Non-Residential - Service Classification 3				
	Minimum Charge	Next 49 Mcf	Next 950 Mcf	Over 1,000 Mcf	Note
Current Sales Rates					
1 Base Sales Rate	$ 19.62	$ 5.5157	$ 4.9342	$ 4.6095	Tariff Leaf 157
2 GAC 01/01/2002	$ 1.56	$ 1.5577	$ 1.5577	$ 1.5577	1/01/2002 GAC
3 Billed Sales Rat6	$ 21.18	$ 7.0734	$ 6.4919	$ 6.1672	Line 1 + Line 2
4 Base Cost of Gas	$ 3.15	$ 3.14976	$ 3.14976	$ 3.14976	
5 Non-Gas Cost	$ 16.47	$ 2.36594	$ 1.76444	$ 1.45974	Line 1 - Line4
Unbundled Delivery Charge - Sales and Transportation Service (<5000 Mcf)					
6 Non-Gas Cost	$ 16.47	$ 2.36594	$ 1.78444	$ 1.45974	Line 5
7 Reserve Capacity Cost	$ 0.14	$ 0.14180	$ 0.14160	$ 0.14180	Jan. 2002 Reserve Cap Cost
8 Total Base Delivery Charge	$ 16.61	$ 2.50774	$ 1.92624	$ 1.60164	Line 6 + Line 7
9 Take or Pay	$ -	$ (0.00110)	$ (0.00110)	$ (0.00110)	1/01/2002 GAC
10 Transition Costs	$ -	$ 0.00260	$ 0.00260	$ 0.00260	1/01/2002 GAC
11 R&D Funding Charge	$ 0.01	$ 0.01260	$ 0.01260	$ 0.01280	1/01/2002 GAC
12 Transition Surcharge	$ 0.09	$ 0.09060	$ 0.09060	$ 0.09080	1/01/2002 GAC
13 Reserve Capacity Cost Adjustment	S-S	- $	-	$	TBD monthly
14 Delivery Adjustment Charge	s 0.10	$ 0.10510	$ 0.10510	$ 0.10510	Line 9 + 10 + 11 + 12 + 13
15 Total Gas Delivery Charge	$ 16.71	$ 2.61284	$ 2.03134	S 1.70664	Line 8 + Line 14
Unbundled Natural Gas Supply Charge -Sales Service					
16 Base Cost of Gas	$ 3.15	$ 3.14976	$ 3.14976	$ 3.14976	Line4
17 Reserve Capacity Cost	$ 0.14	$ 0.14180	$ 0.14180	$ 0.14180	Line7
18 Base Natural Gas Suppty Cost	$ 3.01	$ 3.00796	$ 3.00796	$ 3.00796	Line 16 -Line 17
19 Natunl Gas Supply Adjustment Charge	$ 1.48	$ 1.46260	$ 1.46260	$ 1.46260	LIne 2 - Line 14
20 Total Natural Gas Supply Cost	S 4.47	$ 4.46056	$ 4.46056	$ 4.46056	Line 18 + Line19
21 Current Billed Sales Rate	$ 21.18	$ 7.0734	$ 6.4919	$ 6.1672	Line 20 + Line15
22 Check	S-S	- $	-	$ -	Line 21 - Line3
23 Base Sales Rate	$ 19.62	$ 5.5157	$ 4.9342	$ 4.6095	Line 18 - Line 8
24 GAC	$ 1.56	$ 1.55770	$ 1.56770	$ 1.66770	Line 14 + Une 19

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 00-G-1858 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation

NOTICE OF DETERMINATION
OF SIGNIFICANCE

NOTICE is hereby given that an Environmental Impact Statement will not be prepared in connection with action by the Public Service Commission on the Petition by National Fuel Gas Distribution Corporation for approval of the terms of their Gas Restructuring Joint Proposal dated March 11, 2002.

This is based on our determination, pursuant to Part 617 of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act of the Environmental Conservation Law, that such action will not have a significant adverse effect on the environment. The actions contemplated are unlisted actions.

Implementation of the terms of the Joint Proposal would involve changes in practices and economic arrangements affecting natural gas. Nothing inherent in the Joint Proposal calls for physical construction activities or changes in operation which would directly affect the environment.

The address of the Public Service Commission, the lead agency for purposes of environment quality review of this project, is Three Empire State Plaza, Albany, New York 12223-1350. For further information contact Peter Catalano at (518) 474-6522.

JANET HAND DEIXLER
Secretary