

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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Case 23-G-0378 – Petition of National Fuel Gas :
Distribution Corporation for Authority to Issue : VERIFIED PETITION FOR
Promissory Notes : EXPEDITED CLARIFICATION
:
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VERIFIED PETITION FOR EXPEDITED CLARIFICATION OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION
OF ORDER AUTHORIZING ISSUANCE OF SECURITIES

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Dated: December 19, 2023

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I. INTRODUCTION AND RELIEF SOUGHT

On November 20, 2023, the New York State Public Service Commission (“Commission” or “PSC”) issued its *Order Authorizing Issuance of Promissory Notes* (“Order”) in Case 23-G-0378. National Fuel Gas Distribution Corporation (“Distribution” or the “Company”) hereby requests expedited clarification of certain limited aspects of the Order. Distribution seeks such expedited relief because Ordering Paragraph 8 of the Order states:

8. The promissory notes authorized by this Order shall not be issued unless and until National Fuel Gas Distribution Corporation files with the Commission an unconditional acceptance by National Fuel Gas Distribution Corporation to obey all the terms, conditions, and requirements of this Order. If such acceptance is not filed within 30 days from the effective date of this Order, the Commission may revoke this Order without further notice.

Distribution is appreciative of the Commission’s grant of authority in the Order, but the Company respectfully seeks clarification on a matter contained in the Accounting Treatment section of the order.

Specifically, Distribution seeks clarification of certain language contained in the Order regarding the accounting treatment for costs related to the refinancing of existing debt prior to maturity. The Company respectfully requests that such clarification be provided on an expedited basis because Distribution’s current financing authority expires on December 31, 2023, and, for

the reasons provided herein, at this time, Distribution is unable to unconditionally accept the Order in its entirety,¹ which is a prerequisite to Distribution issuing any promissory notes authorized under the Order. Accordingly, beginning January 1, 2024, and continuing until such time the Commission acts on this Petition, Distribution will experience a gap in its financing authority during which it would be unable to access financing.

II. SPECIFIC ISSUE REQUIRING CLARIFICATION AND/OR REHEARING

The Company respectfully requests clarification and/or rehearing² of the Order regarding the debt costs that are eligible for deferral and amortization and the appropriate amortization period for such costs. The Order at page 11 states:

Therefore, subject to the conditions contained in this Order, we permit Distribution to defer and amortize the costs associated with the early redemption of imminently maturing debt in Account 181, Unamortized Debt Expense. The amounts so deferred shall be amortized to Account 428, Amortization of Debt Discount and Expenses. These costs shall be amortized over the remaining life of the redeemed debt(s). Distribution shall only be permitted to use this accounting treatment for those debts that are redeemed within 12 months of maturity.³

This requirement was not contained in the Company's previous financing order,⁴ and, as a result, presents certain challenges that Distribution does not believe were anticipated when the matter was being considered. Specifically, the Company believes that this requirement conflicts with the Company's current accounting practices and could potentially result in a violation of accounting guidelines.

¹ Contemporaneously with the filing of this Petition, the Company is also seeking an extension of time from the Secretary to the Commission to file its unconditional acceptance with respect to the provisions of the Order that are the subject of this Petition.

² In the event the Commission determines rehearing is required in connection with this Petition, the Company respectfully requests that this Petition be treated as a Petition for Rehearing pursuant to Public Service Law § 22 and 16 NYCRR § 3.7.

³ Similar language is contained in Ordering Clause 4.

⁴ Case 20-G-0317, *Petition of National Fuel Gas Distribution Corporation for Authority to Issue and Sell Promissory Notes*, Order Authorizing Issuance of Securities (Dec. 18, 2020) (the "2020 Financing Order").

Attached hereto as Exhibit A are the Uniform System of Accounts General Instructions (“General Instructions”) specific to the treatment of any premium or unamortized costs related to a refinancing/refunding transaction. The General Instructions state that there are three options that a company may elect to account for these type of transactions:

1. A Company may write off the cost of any premium and any unamortized costs immediately when the amounts are insignificant;
2. A Company may amortize the cost of any premium and any unamortized costs by equal monthly amounts over the remainder of the original life of the issue retired;
or
3. A Company may amortize the cost of any premium and any unamortized costs by equal monthly amounts over the life of the new issue.

The General Instructions do not limit these accounting options to only those debts that are redeemed within 12 months of maturity. The General Instructions go on to state that, “once an election is made, it must be applied on a consistent basis.”⁵

Distribution has consistently – in compliance with the General Instructions – elected the third option above, which amortizes the unamortized costs/premium over the life of the new issue. The Order, as currently written, however, requires the Company to utilize the second option, which departs from Distribution’s previously elected accounting treatment in a manner that is inconsistent with the General Instructions. In addition, should the Company determine it appropriate to redeem debt that will mature more than 12 months from the date of the refinancing, the Order would now allow the Company to amortize the unamortized costs/premium related to the refinancing over the life of the new issue, which would also be

⁵ Here, the costs are not insignificant, so Option One is not relevant.

contrary to its elected accounting treatment and inconsistent with the General Instructions. Consequently, the Company is concerned that the Order, as currently written, will force the Company to treat these costs in a manner inconsistent with its previously elected accounting treatment and run afoul of the accounting rules.

Additionally, the above-quoted language from page 11 of the Order is contrary to the clarification the Company received from the Commission related to its 2017 financing petition in Case 17-G-0414.⁶ Pursuant to a similar request for clarification in that proceeding, the Commission clarified that the Company was permitted to continue to use the historical accounting method of amortizing the cost of any premium and any unamortized costs by equal monthly amounts over the life of the new issue.

Due to the Company's accounting concerns discussed above, the Company respectfully requests that the Commission clarify that the Order does not mandate any specific accounting treatment that would run afoul of the Company's prior accounting practices. Specifically, the Company requests the Commission clarify that the Company may amortize the cost of any premium and any unamortized cost(s) of the refunded issue(s) by using the method historically elected by the Company and granted by the Commission in the Clarifying Order. Thus, the Company respectfully requests that page 11 of the Order be clarified to state that, "These cost shall be amortized over the remaining life of the redeemed debt(s), *or be amortized using the historical method previously elected by Distribution.*" (new language italicized). The Company further respectfully requests that Ordering Paragraph 4 be clarified as follows:

⁶ Case 17-G-0414, *Petition of National Fuel Gas Distribution Corporation for Authority to Issue and Sell Promissory Notes*, Order Clarifying Authorization of Issuance of Securities (Mar. 19, 2018) ("Clarifying Order").

National Fuel Gas Distribution Corporation is authorized to defer its costs associated with the early redemption of debt in Account 181, Unamortized Debt Expense, subject to the conditions in the body of this Order. The amounts so deferred shall be amortized to Account 428, Amortization of Debt Discount and Expense.⁷

The Company believes these clarifications will enable it to follow the accounting treatment that it has historically applied, remain in compliance with the Uniform System of Accounts, and unconditionally accept the Order pursuant to Ordering Paragraph 8.

III. CONCLUSION

In summary, Distribution believes the appropriate accounting treatment for any refinancing (early redemption) should be to amortize any premium and unamortized costs of the refunded issues over the life of the new issuance, consistent with the manner in which the Company has treated those costs in the past and as required under the Uniform System of Accounts based on Distribution's historical election. Based on the foregoing, Distribution respectfully requests the Commission clarify its Order as discussed above on an expedited basis.

Respectfully submitted,

/s/ Randy C. Rucinski, Esq.

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Dated: Albany, New York
December 19, 2023

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⁷ The proposed revision to Ordering Paragraph 4 is consistent with the comparable Ordering Paragraph from the 2020 Financing Order. See 2020 Financing Order at 13, Ordering Paragraph 4.

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VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF ERIE)

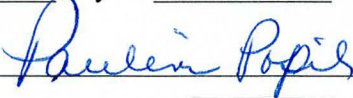
Timothy J Silverstein, being duly sworn according to law, upon his oath, deposes and says:

1. I am Treasurer of National Fuel Gas Distribution Corporation and am authorized to make this Verification on behalf of National Fuel Gas Distribution Corporation (the “Company”).
2. I have read the contents of the foregoing Petition and hereby verify that the statements therein contained as to the Company are true and accurate to the best of my knowledge and belief.



Sworn to and subscribed before me this

19 day of DECEMBER 2023



Notary Public

PAULINE POPIELA
Notary Public, State of New York
Qualified in Erie County
My Commission Expires June 30, 2026
#01P04817544

EXHIBIT A

APPENDIX

General Instructions from the Uniform System of Accounts

17. Long-term debt: Premium, discount and expense, and gain or loss on reacquisition—

A. Premium, discount and expense. A separate premium, discount and expense account shall be maintained for each class and series of long-term debt (including receivers' certificates) issued or assumed by the utility. The premium will be recorded in account 225, Unamortized Premium on Long-Term Debt, the discount will be recorded in account 226, Unamortized Discount on Long-Term Debt—Debit, and the expense of issuance shall be recorded in account 181, Unamortized Debt Expense.

The premium, discount and expense shall be amortized over the life of the respective issues under a plan which will distribute the amounts equitably over the life of the securities. The amortization shall be on a monthly basis, and amounts thereof relating to discount and expense shall be charged to account 428, Amortization of Debt Discount and Expense. The amounts relating to premium shall be credited to account 429, Amortization of Premium on Debt—Credit.

B. Reacquisition, without refunding. When long-term debt is reacquired or redeemed without being converted into another form of long-term debt and when the transaction is not in connection with a refunding operation (primarily redemptions for sinking fund purposes), the difference between the amount paid upon reacquisition and the face value; plus any un-amortized premium less any related unamortized debt expense and reacquisition costs; or less any unamortized discount, related debt expense and reacquisition costs applicable to the debt redeemed, retired and canceled, shall be included in account 189, Unamortized Loss on Reacquired Debt, or account 257, Unamortized Gain on Reacquired Debt, as appropriate. The utility shall amortize the recorded amounts equally on a monthly basis over the remaining life of the respective security issues (old original debt). The amounts so amortized shall be charged to account 428.1, Amortization of Loss on Reacquired Debt, or credited to account 429.1, Amortization of Gain on Reacquired Debt—Credit, as appropriate.

C. Reacquisition, with refunding. When the redemption of one issue or series of bonds or other long-term obligations is financed by another issue or series before the maturity date of the first issue, the difference between the amount paid upon refunding and the face value; plus any unamortized premium less related debt expense or less any unamortized discount and related debt expense, applicable to the debt refunded, shall be included in account 189, Unamortized Loss on Reacquired Debt, or account 257, Unamortized Gain on Reacquired Debt, as appropriate. The utility may elect to account for such amounts as follows:

(1) Write them off immediately when the amounts are insignificant.

(2) Amortize them by equal monthly amounts over the remainder of the original life of the issue retired, or

(3) Amortize them by equal monthly amounts over the life of the new issue.

Once an election is made, it shall be applied on a consistent basis. The amounts in (1), (2), or (3) above shall be charged to account 428.1, Amortization of Loss on Reacquired Debt, or credited to account 429.1, Amortization of Gain on Reacquired Debt—Credit, as appropriate.