



June 30, 2023

Via Electronic Filing

Molly Magnis
Records Access Officer
New York State Department of Public Service
Agency Building 3
Albany, NY 12223-1350

**Re: Case Nos. 16-G-0257, 17-G-0799 and 21-G-0423
Request for Trade Secret Protection Pursuant to 16
NYCRR Subpart 6-1**

Dear Ms. Magnis,

Pursuant to the New York State Freedom of Information Law (“FOIL”) (N.Y. Pub. Off. Law §§ 84, et seq. (McKinney 2016)) and Part 6 of the New York State Public Service Commission’s (“Commission”) regulations, National Fuel Gas Distribution Corporation (“National Fuel” or the “Company”), hereby submits this letter in support of the Company’s request to protect from public disclosure certain details contained in the Company’s PRIME-WNY Program Annual Report (attached) in the above captioned cases. The Company’s submission contains confidential commercial information for which National Fuel is hereby seeking protection (“Confidential Information”).

The Confidential Information should be protected from public disclosure because it qualifies as trade secret, confidential commercial information and is thus exempt from disclosure under FOIL. Section 87(2) of the New York State Public Officers Law (“POL”) states in relevant part that agencies may deny access to documents that are: 1) trade secrets; or 2) records submitted to an agency by a commercial enterprise (or records derived from information obtained from a commercial enterprise) and which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise. N.Y. Pub. Off. Law § 87(2)(d) (McKinney 2016); Verizon New York, Inc. v. New York State Pub. Serv. Comm’n, 46 Misc.3d 858 (3d Dep’t 2016).

The Commission has also promulgated rules and regulations to implement FOIL. See 16 NYCRR § 6-1.1 et seq. Section 6-1.3 allows a party to seek trade secret or confidential commercial information protection for any records submitted to the Commission. Id. § 6-1.3.

The Confidential Information is not, to the Company’s knowledge, publicly available and either contains trade secrets, relates to physical or cyber security, is proprietary, or is otherwise confidential in nature. Disclosure of the Confidential Information may cause serious injury to the



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Company, its customers, or to the Company's counterparties. If accessible by others, the information could negatively impact National Fuel's competitive negotiating position both with existing counterparties and with potential counterparties. In addition, the Confidential Information merits trade secret protection due to contractual confidentiality requirements and Company practice to maintain confidentiality with regard to third party and counterparty information.

Accordingly, the Company requests that the Confidential Information be permanently safeguarded and protected from public disclosure as authorized by Section 87(2) of the Public Officers Law and 16 NYCRR §6-1.3 and the New York Court of Appeals. *New York Telephone Company v. Public Service Commission*, 56 N.Y. 2d 213, 217 (1982) (holding that the Commission has the authority to issue orders protecting the confidentiality of trade secrets).

Please contact the undersigned at (716) 857-7507 if you have any questions.
Thank you for your kind attention to this matter.

Respectfully submitted,

/s/ Jeffrey B. Same

Jeffrey B. Same
Senior Attorney

Enclosure