

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

Verified Petition of National Fuel Gas	:	
Distribution Corporation Regarding Reallocation	:	
of Rate Case Funds for Residential Methane	:	Case 23-G-0627
Detector Program	:	
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**VERIFIED PETITION OF NATIONAL FUEL GAS DISTRIBUTION  
CORPORATION REGARDING REALLOCATION OF RATE CASE FUNDS  
FOR RESIDENTIAL METHANE DETECTOR PROGRAM**

**I. INTRODUCTION**

1. This Petition, duly verified by Rebecca E. Hillery, is submitted by National Fuel Gas Distribution Corporation (“National Fuel” or “the Company”) to respectfully request permission to repurpose funds the New York State Public Service Commission (“Commission”) authorized for enhanced leak surveys in its *Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plan With Minor Modifications* in Case 23-G-0627 (“Rate Order”).<sup>1</sup> Specifically, the Company seeks authorization to repurpose \$3,024,259 that, pursuant to the Rate Order, is included in base rates for the purpose of conducting enhanced leak surveys in response to proposed Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulations. Those regulations have not yet been formally adopted and appear unlikely to be adopted during the Company’s current three-year rate plan. Accordingly, to further another important customer safety initiative, the Company hereby requests permission to reallocate the funds to support the enhanced residential methane detector (“RMD”) program (“Enhanced RMD Program”) that the

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<sup>1</sup> Case 23-G-0627, *Proceeding on the Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service, Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plan with Minor Modifications* (December 19, 2024).

Commission authorized in the Rate Order, as more fully described below.

2. The Company respectfully requests that the Commission grant expedited review of this Petition and issue an order granting the relief requested herein on or before the Commission's March 2026 session.

3. In support of this Petition, National Fuel states as follows:

## **II. FUNDS FOR ENHANCED LEAK SURVEYS**

4. On October 31, 2023, the Company submitted a rate filing to the Commission seeking authorization to increase its annual base rates for the rate year ending September 30, 2025. A joint proposal was filed with the Commission in Case 23-G-0627 on September 9, 2024 ("Joint Proposal"),<sup>2</sup> and on December 19, 2024, the Commission issued the Rate Order, which established a three-year rate plan for the Company with the twelve months ending September 30, 2025 as Rate Year 1, the twelve months ending September 30, 2026 as Rate Year 2, and the twelve months ending September 30, 2027 as Rate Year 3.

5. As part of its initial rate filing, the Company submitted direct testimony from its Operations & Safety Panel explaining, in pertinent part, the need for funds to cover incremental costs associated with the Company's compliance with PHMSA's proposed rule associated with the Pipelines and Enhancing Safety Act of 2020, which, once implemented, would require enhanced regulation of leak detection repair programs.<sup>3</sup> The new rule would significantly increase leak survey activity and involve restructuring leak backlog and leak repair work management, which would result in incremental costs to the Company.

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<sup>2</sup> Case 23-G-0627, *Proceeding on the Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Services*, Joint Proposal (September 9, 2024).

<sup>3</sup> Case 23-G-0627, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service*, Direct Testimony of the Company's Operations & Safety Panel, p. 30 (October 31, 2023) ("Operations & Safety Panel Testimony").

6. Over the course of the Company's three-year rate plan, the Commission authorized the Company to increase base rates by \$7,425,773 to fund enhanced leak surveys by outside contractors in response to the proposed regulation. The amounts to be collected in each rate year for such purposes are as follows:

- a) Rate Year 1: \$2,421,544
- b) Rate Year 2: \$2,474,891
- c) Rate Year 3: \$2,529,338<sup>4</sup>

7. Due to the uncertainty in when PHMSA's proposed rule would be implemented, the Rate Order provides that incremental outside contractor costs for incremental leak surveys pursuant to this PHMSA rule are subject to downward-only reconciliation. This downward-only reconciliation and deferral is effective in Rate Year 1 and any subsequent rate year in which the issuance and implementation of the final PHMSA rule remains outstanding.

8. To date, PHMSA's proposed rule has not been adopted in light of President Trump's January 20, 2025 Regulatory Freeze Pending Review.<sup>5</sup> Currently, PHMSA's proposed rule is not expected to be adopted during the Company's three-year rate plan.<sup>6</sup>

9. Because PHMSA's proposed rule did not go into effect, to date the Company has not incurred costs associated with enhanced leak surveys, and it does not expect to do so until and unless PHMSA's proposed rule is adopted.

10. Absent the relief requested in this Petition, the Company would be required to reconcile and defer incremental outside contractor costs of \$7,425,773 by the end of Rate Year 3

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<sup>4</sup> RY1 Figure: Case No. 23-G-0627, Joint Proposal Appendix A, O&M Schedule, Contractors & Outside Services Line Item; RY2: Adjusted for 2.203% inflation; RY3: Adjusted for 2.200% inflation.

<sup>5</sup> See *Regulatory Freeze Pending Review Memorandum*, 90 FR 8249 (January 28, 2025).

<sup>6</sup> American Public Gas Association, "Status Update on Leak Detection and Repair Final Rule Amid Regulatory Freeze," <https://www.apga.org/blogs/erin-kurilla/2025/01/23/status-update-on-the-leak-detection-and-repair-fin>.

that are included in base rates for the purpose of completing incremental leak surveys pursuant to this PHMSA rule. If the Commission grants the relief requested in this Petition (repurposing \$3,024,259), the Company would reconcile and defer a total of \$4,401,514 of the enhanced leak survey costs by the end of Rate Year 3. In accordance with the Joint Proposal, the Company would refund annual deferrals net of amounts repurposed for the Enhanced RMD Program back to customers through the Delivery Adjustment Charge. Please see Attachment 1 for further details.

### **III. ENHANCED RMD PROGRAM SHORTFALL AND REQUEST FOR REALLOCATION**

11. As part of its rate filing, the Company's Operations & Safety Panel proposed an Enhanced RMD Program utilizing a three-year phased approach, with a goal to distribute approximately 17,059 units in Rate Year 1, 34,118 units in Rate Year 2, and 51,176 units in Rate Year 3 for a total of 102,353 detectors by the end of the three-year rate plan.<sup>7</sup>

12. As explained in the Operations & Safety Panel Testimony, the total cost of the Enhanced RMD Program is expected to be \$5,956,080, broken down by rate year as follows:<sup>8</sup>

- a) Rate Year 1: \$956,055
- b) Rate Year 2: \$1,965,610
- c) Rate Year 3: \$3,034,415

13. In its prepared testimony, the Department of Public Service Staff Gas Safety Panel fully supported the Company's Enhanced RMD Program proposal, including the goal to distribute more than 102,000 units by the end of Rate Year 3.<sup>9</sup>

14. The Enhanced RMD Program was ultimately supported by the signatories to the

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<sup>7</sup> See Operations & Safety Panel Testimony at pp. 27-28

<sup>8</sup> See Operations & Safety Panel Testimony at p. 28.

<sup>9</sup> Case 23-G-0627, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service*, Prepared Testimony of the Staff Gas Safety Panel, pp. 56-58 (March 1, 2024).

Joint Proposal and the program's costs were included in the Joint Proposal's recommended revenue requirement. As noted in the Joint Proposal, the intent of the signatories was to fund the Enhanced RMD program to allow for more than 102,000 RMDs to be distributed over the three-year rate plan.

15. In the Rate Order, the Commission authorized the Company to implement the Enhanced RMD Program referencing the positive feedback from customers and added safety benefits.<sup>10</sup> The Commission also expressly noted that the Joint Proposal reflects Staff's agreement with the program as proposed by the Company.

16. The Company, however, recently became aware that the total amount that was allocated to the Enhanced RMD Program in the Joint Proposal and Rate Order and thus embedded in base rates is not the full \$5,956,080 but instead only \$2,931,821, broken down by Rate Year as follows:

- a) Rate Year 1: \$956,055
- b) Rate Year 2: \$977,144
- c) Rate Year 3: \$998,622

17. Despite the testimony and exhibits of both the Company and Staff supporting \$5,956,080 for the Enhanced RMD Program over the course of the three-year rate plan, the Joint Proposal only reflected, and thus the Rate Order only authorized, the recovery of \$2,931,821 over the course of the rate plan, leading to a total shortfall of \$3,024,259. Essentially, the Joint Proposal and Rate Order only increased the cost of the program by inflation year-over-year and did not account for the planned annual phased ramp-up as described above.

18. Without reallocating additional funds, the Company would be unable to fully fund the Enhanced RMD Program, and it would fall short of its RMD purchase and distribution goal by

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<sup>10</sup> See Rate Order at 70-71.

approximately 52,000 RMDs.

19. National Fuel is proposing to repurpose \$3,024,259 of the enhanced leak survey funds to fully fund the Enhanced RMD Program, which will allow National Fuel to cover the cost of approximately 102,353 total RMDs as contemplated by the signatories to the Joint Proposal. Additionally, National Fuel proposes to track and reconcile the actual costs incurred on the Enhanced RMD Program through the end of Rate Year 3 with the cumulative authorized revenue requirement of \$5,956,080, and implement a downward only adjustment mechanism that would defer any underspent amounts at the end of Rate Year 3 for the benefit of ratepayers. Under the proposed tracking mechanism, the Company would not be able to defer any amounts spent above the \$5,956,080 to implement the full program.

#### **IV. IT IS REASONABLE TO ALLOCATE UNUSED FUNDS TO THE ENHANCED RMD PROGRAM**

20. The Company's proposal to repurpose the enhanced leak survey funds to ensure full funding for the Joint Proposal's RMD Program is reasonable because the money will continue to be used for a public safety purpose.

21. RMDs provide an early alarm for the detection of natural gas leaks, thus providing an additional level of safety to customers and reducing the potential that a leak results in a natural gas incident. Since the Company does not control access to customer premises (those who have gas meters in their building), RMDs will assist customers in monitoring the safety of those gas facilities.<sup>11</sup>

22. The proposed PHMSA regulatory amendment relating to enhanced leak surveys was also intended to promote gas safety, as it sought to improve identification and provide

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<sup>11</sup> See Operations & Safety Panel Testimony at p. 27.

mandatory repair timelines in order to continue safe operation of systems.<sup>12</sup>

23. Since both of these initiatives promote gas safety, it is reasonable to allocate unused funds from one project to another in furtherance of the same goal.

24. As detailed in pre-filed testimony, both the Company and Staff fully supported the Company's proposal to distribute more than 102,000 RMD units through a three-year phased approach. Repurposing the enhanced leak survey funds will allow the Company to meet the intent of the Joint Proposal to distribute approximately 102,353 RMDs to low-income, and elderly, blind, and disabled customers, and customers with inside gas meters.

25. The Company is proposing a downward only tracking mechanism to limit ratepayer recoveries to the cumulative amounts authorized in the Joint Proposal and return any unspent funds at the end of Rate Year 3 to ratepayers. The downward only tracking mechanism provides further protection for ratepayers if RMD program costs run higher than amounts projected and authorized in the Joint Proposal. Accordingly, the reallocation of funds is in the public interest because it would promote customer health and safety and allow the Company to achieve its RMD purchase and distribution goal without any additional impact on rates or ratepayers.

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<sup>12</sup> See Operations & Safety Panel Testimony at p. 30.

## V. CONCLUSION

WHEREFORE, for the reasons expressed above, the Company respectfully requests that the Commission grant the relief sought in this Petition on an expedited basis, on or before the Commission's March 2026 session, as well as such other and further relief as may be required.

Dated: December 9, 2025  
Albany, New York

Respectfully submitted,

*/s/ Jeffrey B. Same, Esq.*

*/s/ Gregory G. Nickson, Esq.*

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# Attachment 1

## Summary of Current Program Funding and Company Proposal

	Residential Methane Detector Program				Company Proposal		
	Enhanced Leak Surveys	Authorized Cost	Included in Rev Req	Shortfall	Reallocated to RMD Program Shortfall	Refunded to Customers via DAC	Total
<b>RY1</b>	\$ 2,421,544	\$ 956,055	\$ 956,055	\$ -	\$ -	\$ 2,421,544	\$ 2,421,544
<b>RY2</b>	\$ 2,474,891	\$ 1,965,610	\$ 977,144	\$ (988,466)	\$ 988,466	\$ 1,486,425	\$ 2,474,891
<b>RY3</b>	\$ 2,529,338	\$ 3,034,415	\$ 998,622	\$ (2,035,793)	\$ 2,035,793	\$ 493,545	\$ 2,529,338
	<b>\$ 7,425,773</b>	<b>\$ 5,956,080</b>	<b>\$ 2,931,821</b>	<b>\$ (3,024,259)</b>	<b>\$ 3,024,259</b>	<b>\$ 4,401,514</b>	<b>\$ 7,425,773</b>



## Notice of Proposed Rule Making (Rate Making only)

Public Service Commission  
(SUBMITTING AGENCY)

**NOTE:** Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice change in text.

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1. *Proposed action:*

The New York Public Service Commission is considering a petition filed by National Fuel Gas Distribution Corporation ("National Fuel") to reallocate funds to support National Fuel's enhanced residential methane detector program ("RMD Program").

2. *Statutory authority under which the rule is proposed:*

Public Service Law 66

3. *Subject of the rule:*

Approve relief requested in petition.

4. *Purpose of the rule:*

Determine if National Fuel's petition to reallocate funds to support its RMD Program should be approved.

5. *Public hearings* (check box and complete as applicable):

A public hearing is not scheduled. (*SKIP TO ITEM 8*)

A public hearing is required by law and is scheduled below. (**Note:** first hearing date must be at least 60 days after publication of this notice unless a different time is specified in statute.)

A public hearing is not required by law, but is scheduled below.

*Time:*

*Date:*

*Location:*

6. *Interpreter services* (check only if a public hearing is scheduled):

Interpreter services will be made available to hearing impaired persons, at no charge, upon written request to the agency contact designated in this notice.

7. Accessibility (check appropriate box only if a public hearing is scheduled):

- All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.
- Attached is a list of public hearing locations that are **not** reasonably accessible to persons with a mobility impairment. An explanation is submitted regarding diligent efforts made to provide accessible hearing sites.



8. Terms of rule (SELECT ONE SECTION):

- A.  The full text of the rule is attached because it does not exceed 2,000 words.
- B.  A summary of the rule is attached because the full text of the rule exceeds 2,000 words. Web posting of full text of such rule is not required [SAPA §202(1)(a)].
- C.  Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].

9. The text of the rule and any required statements and analyses may be obtained from:

Agency contact Honorable Michelle L. Phillips, Secretary  
 Agency Name New York Public Service Commission  
 Office address Three Empire State Plaza  
Albany, New York, 12223-1350  
 Telephone (518) 474-6530 E-mail: secretary@dps.ny.gov

10. Submit data, views or arguments to (complete only if different than previously named agency contact):

Agency contact \_\_\_\_\_  
 Agency name \_\_\_\_\_  
 Office address \_\_\_\_\_  
 Telephone \_\_\_\_\_ E-mail: \_\_\_\_\_

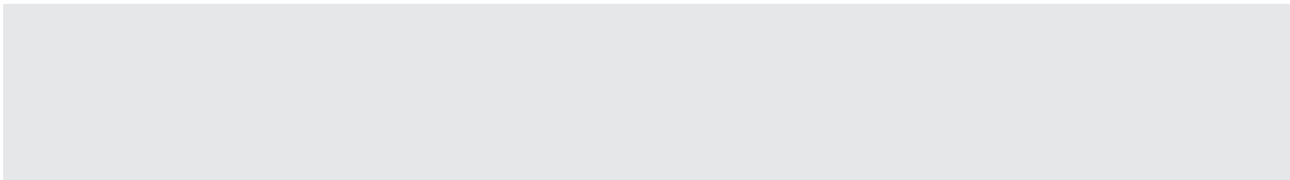
11. Public comment will be received until:

- 60 days after publication of this notice (MINIMUM public comment period).
- 5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing).
- Other: (specify) \_\_\_\_\_.

12. A prior emergency rule making for this action was previously published in the \_\_\_\_\_ issue of the Register, I.D. No. \_\_\_\_\_.

13. Additional matter required by statute:

- Yes (include below material required by statute).



- No additional material required by statute.

14. Regulatory Agenda [See SAPA §202-d(1)]:

This action was a Regulatory Agenda item in the following issue of the *State Register*: \_\_\_\_\_ .

This action was not under consideration at the time this agency's Regulatory Agenda was submitted for publication in the *Register*.

Not applicable.

15. Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

16. PUBLIC SERVICE COMMISSION ONLY:

SAPA NO.

AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice.)

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name  Signature \_\_\_\_\_

Address

Telephone  E-Mail \_\_\_\_\_

Date

Please read before submitting this notice:

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's Register procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word), should be e-filed via the Department of State website.