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VIA HAND DELIVERY

Hon. Jaclyn Brilling
Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 07-M-0458 -- Proceeding on Motion of the Commission to Review Policies and Practices Intended to Foster the Development of Competitive Retail Energy Markets

Dear Secretary Brilling:

Enclosed please find an original and ten copies of National Fuel Gas Distribution Corporation's initial comments in response to the Commission's April 24, 2007 Notice Soliciting Comment in Case No. 07-M-0458.

Thank you for your attention to this matter.

Respectfully submitted,

Michael W. Reville

Michael W. Reville, Esq.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 07-M-0458 - Proceeding on Motion of the Commission to Review Policies and Practices Intended to Foster the Development of Competitive Retail Energy Markets

INITIAL COMMENTS OF NATIONAL FUEL GAS DISTRIBUTION CORPORATION

On April 24, 2007, the Public Service Commission ("Commission") issued an Order on Review of Retail Access Policies and Notice Soliciting Comment ("Order") in the above-captioned proceeding inviting interested parties to submit comments on issues relating to continuation of various competition programs and practices of utilities to promote retail market development. As explained by the Commission:

> It may be appropriate, at this time, to review these programs and practices to determine their effectiveness in removing barriers, examine the costs of these initiatives and the extent to which those costs are borne by ratepayers, and determine the need to continue programs and practices that are subsidized by ratepayers or, alternatively, the potential harm of discontinuing those programs. Order at 6.

National Fuel Gas Distribution Corporation ("Distribution") is a gas-only local distribution company that serves approximately 520,000 customer accounts in western New York State. Distribution agrees with the Commission's assessment that "retail energy markets have developed and grown" in New York. Order at 4. On Distribution's system, approximately 17% of retail customers purchase their supply from Energy Service Companies ("ESCOs"), up from 11% one year ago. Lately nearly 4000 customers have been switching to ESCOs each month, a rate of migration that is ten times the level experienced last year. These figures demonstrate that retail competition has become firmly established in Distribution's service territory.

Distribution believes that the utilities' role of promoting retail competition has served its purpose. In adopting a model of competition that included promotional programs, the Commission in 2004 expressly recognized that some programs would be transitional in nature, and therefore not suitable for the long run. See, e.g., Case 00-M-0504, Statement of Policy on Further Steps Toward Competition in Retail Energy Markets (issued August 25, 2004) at 29 (Switch & Save program an interim, near-term strategy) On the other hand, the Commission is correct in its observation that "continuation of some of the existing .... programs and practices ... might still be needed ...." Order at 6. In Distribution's opinion, a distinction should be made between *promoting* retail competition and *maintaining* a fair platform that enables retail access to continue. The former is the role of ESCOs and should no longer be undertaken by utilities. The latter is rightfully a continuing role for utilities and the Commission.

Specific Programs

Utility-sponsored (and ratepayer-funded) promotional programs, as observed by the Commission, "may have outlived their usefulness and could be allowed to expire." Order at 6. Programs and practices that are necessary to maintain a platform for retail competition should be allowed to continue. In its recently filed rate case, Distribution identified the following programs as among those that "may have outlived their usefulness and should be allowed to expire." They are:

- ESCO Referral Program.
- "Market Match" program, where 1000 of the Company's largest sales customers were invited to enroll in a program where the Company would post their contact and consumption information on a secure portion of its web site so that ESCOs

could access the information and submit offers directly to the participating customers.

- Market Expo program, under which large customers were invited to attend a presentation where the Company, Staff and ESCOs explained retail choice opportunities. Following the presentation, ESCOs were permitted to solicit business directly from attending customers.
- Residential energy fair. Same as a Market Expo, but designed for residential customers.
- Mass market migration collaborative.
- Pilot program to subsidize ESCO fixed price retail contracts.

As explained by Distribution's witness, the above programs were scheduled for termination and the Company determined not to seek renewal because "they served or exhausted their intended purpose." The Company further explained that "the competitive natural gas market is sufficiently robust in the Company's service territory to be sustained without the continued assistance that these programs provided." These programs were among the types of programs that the Commission adopted to assist market development during the transition period to full competition. As mentioned previously, given that nearly twenty percent of Distribution's retail customers have switched to ESCOs,[1] the transition period has passed, and utility-sponsored promotional programs are no longer necessary.

Programs and practices designed to maintain a sound platform for competition should be continued. In Distribution's experience, those programs include the following:

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[1] Nearly 100% of Distribution's large-volume customers purchase supply from ESCOs, and on an annual basis, approximately one-third of Distribution's total system throughput is ESCO supplies.

- Unbundled rates and customer bills. Perhaps the strongest argument in favor of maintaining unbundled rates is that, for Distribution, there is no reasonable need to re-bundle existing unbundled rates. Unbundled rates and customer bills help to facilitate customer choice by providing greater price transparency and a price to compare.
- Customer awareness surveys and a limited education program (i.e. bill inserts and a web site) will continue to serve a useful purpose to maintain necessary awareness levels and identify problems that may require attention.
- The ESCO ombudsman serves a useful role for resolution of disputes between the utility and ESCOs.
- Utilities should be permitted to continue billing programs that include purchase of accounts receivable ("POR") if, in the utility's judgment, a POR program conforms to the utility's business and regulatory agenda.

Respectfully submitted,

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