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July 16, 2007

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 reply comments in the above-referenced proceeding.

Thank you for your attention to this matter.

Respectfully submitted,

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

REPLY 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 these programs.

For its response, Distribution timely submitted the "Initial Comments of National Fuel Gas Distribution Corporation" ("Initial Comments"), stating generally that the role of utilities and the Commission should be limited to maintaining a fair platform that enables retail access to continue, and should no longer include promotional activities. More particularly, Distribution identified the following programs as among those that "may have outlived their usefulness and should be allowed to expire": ESCO Referral Program, Market Match, Market Expo; Energy Fair and subsidies for ESCO fixed-price offerings. Programs and practices that Distribution believed ought to continue included: Unbundled rates and customer bills, customer awareness surveys and limited education programs, ESCO ombudsman and purchase of receivables programs (at the utility's discretion).

These Reply Comments address three new issues raised by commenting parties that were not identified in the Order. They are: (1) the request by a number of ESCOs that customers be informed of choice options when initiating service; (2) the request that the Commission act on utility proposals for expedited ESCO access to customer account numbers; and (3) the proposal by Energetix, Inc. and NYSEG Solutions ("ENX/NS") that the Commission examine the effects of adjustment clauses on competitive markets in each utility's next base rate case. As explained below, Distribution believes that these issues were raised opportunistically by the ESCOs and are beyond the scope of the Commission's policy analysis in this proceeding.

Service Initiation

Liberty Power argues that utilities should notify customers of their option to choose when initiating service. Currently, ESCOs have the right to contact the utility on behalf of a customer-applicant to initiate delivery service. Here, the ESCOs are asking that the utility, at the point of contact with an applicant, promote ESCO services in general as an alternative to utility service. This is a variant of the ESCO referral program and as such, should not be imposed on utilities.

In Distribution's territory (and perhaps across the state), customers have demonstrated through successive surveys that they are abundantly aware that they can choose an alternate supplier. A consumer contemplating utility delivery service can already arrange to have that service initiated by the ESCO, for the ESCO's supply. If in the opinion of the ESCOs, customers need to be better informed about their ability to initiate service with an ESCO instead of the utility, then the proper means of informing customers is through ESCO-delivered promotions and advertising.

As explained in Distribution's (and other parties') Initial Comments, utility-run ESCO assistance programs were designed to be transitional in nature, and not to become a permanent feature of the choice and competition landscape. For this reason, the proposal for a service initiation ESCO assistance program should be denied.

Access to Customer Account Numbers

Liberty Power also asks the Commission to expedite its action on procedures to enable ESCOs easier access to customer account numbers. Liberty Power at 13-14.[1] Liberty Power believes that current procedures limiting such access "make it difficult for customers to switch to competitive suppliers." As amply shown by increased enrollment activity in Distribution's service territory, current protections granted sales customers are no bar to retail access. In light of the change in market conditions since the Accent filings were submitted by utilities, the Commission should continue its analysis in the context of the measured approach toward the furtherance of competition programs described in the Order.

Examination of the Effect of Fuel Adjustment Clauses on Competitive Markets

There is no need to require an examination of the effect of fuel adjustment clauses on competitive markets as requested by ENX/NS. It is clear that utilities will remain in the merchant function for the foreseeable future. Utility fuel adjustment clauses have been in effect for a considerable period. Interim reconciliation mechanisms currently in

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[1] Referring to the Accent proceeding, Case 98-M-1343 – Accent Energy LLC, Order Denying petition and Making Other Findings (issued November 7, 2006) ("Accent").

place mitigate any possible "market distorting" effect, to the extent the utility's price is properly the "price to compare." Absent allowing a utility full and unfettered energy supply pricing flexibility, or requiring a utility to completely exit the merchant function, there is no better means of balancing the interests of customers, ESCOs and the utility than the current fuel adjustment and reconciliation mechanisms.

Respectfully submitted,

NATIONAL FUEL GAS DISTRIBUTION CORPORATION

By: Michael W. Reville (AM)