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November 27, 2007

VIA HAND DELIVERY

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

Re: Case Nos. 07-G-0772 – Proceeding in Motion of the Commission as to
the Rates, Charges, Rules and Regulations of Corning Natural Gas
Corporation for Gas Service

Dear Secretary Brilling:

Pursuant to a “Notice Inviting Comments” issued by the New York State Public Service Commission (“Commission”) on November 2, 2007, Multiple Intervenors, an unincorporated association of approximately 50 industrial, large commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State, including the Corning Natural Gas Corporation (“Corning Gas” or the “Company”) service territory, hereby submits an original and five (5) copies of this letter as its comments on the Company’s proposed \$681,000 rate increase.

On June 28, 2007, Corning Gas filed a request to increase rates on or about February 28, 2008. The proposed rates would have increased annual firm service revenues from full-service and transportation customers by 2.2 percent (\$581,000) for the year ending March 31, 2009. Corning Gas filed a revised proposal on October 5, 2007. Under the new proposal,

rates would increase annual revenues by about 2.5 percent (\$681,000). The rate increase would take effect shortly after the Commission's regularly scheduled session of December 12, 2007. Multiple Intervenors takes no position on the appropriateness or necessity of the proposed 2.5 percent rate increase.

However, as a condition of approval, the Commission should require Corning Gas to file a proposal to fully unbundle its rates to ensure that customers purchasing gas from energy service companies or marketers are not paying twice for the same elements of service. Of particular concern to Multiple Intervenors are current tariff provisions that have been interpreted by Corning Gas to require transportation customers to purchase a portion of their natural gas supply from the Company. For example, Service Classification No. 7 – Firm Transportation states that, “[m]onthly deliveries to the customer will be applied first to any minimum requirement under the applicable tariff provisions for firm service [*i.e.*, S.C. 2].” (Corning Gas Tariff PSC No. 4, Leaf No. 141.) It is our understanding that the Company has interpreted this language to require S.C. 7 transportation customers to purchase, in accordance with S.C. 2 – Industrial Sales Service, their first 250 Mcf of natural gas supply from the Company at a cost of \$1,163.78 plus the applicable Gas Adjustment Clause (“GAC”) charge. This “tying arrangement” is without merit and should be rejected.¹

¹ There has been no demonstration that the commodity cost of gas has any impact on the Company's cost to provide transportation service. Thus, the application of GAC charges to transportation customer is particularly egregious and must be rejected.

First, upon information and belief, Corning Gas is not required to reserve or procure natural gas supply for S.C. 7 transportation customers that do not reserve sales status. As such, the Company should not incur any gas supply costs in the provision of transportation service. Accordingly, any Corning Gas tariff provision that obligates transportation customers, who purchase their own gas supply from third party suppliers, to purchase Company-owned gas as a condition of receiving transportation service has no cost basis and should be rejected.

Tying the provision of transportation service to the payment of gas supply costs also directly contradicts the Commission's vision for competitive natural gas markets in New York. Within New York, retail competition for natural gas began in the mid-1980s when large customers were given the option to purchase gas directly. Since then the Commission has required local gas distribution companies (LDCs) to unbundle their tariffs.² Significantly, in its Vision for a Competitive Natural Gas Market, the Commission held that "[t]he most effective way to establish a competitive market in gas supply is for local distribution companies to cease selling gas."³ The Commission further held that "separation

² Case 93-G-0932, Proceeding on Motion of the Commission to Address Issues Associated with the Restructuring of the Emerging Competitive Natural Gas Market, Policy Statement Concerning the Future of the Natural Gas Industry in New York State and Order Terminating Capacity Assignment (issued November 3, 1998) at 4 (citing Case 93-G-0932, Restructuring of the Emerging Competitive Natural Gas Market, Order Concerning Compliance Filings (issued March 28, 1996)).

³ Case 93-G-0932, Proceeding on Motion of the Commission to Address Issues Associated with the Restructuring of the Emerging Competitive Natural Gas Market, and Case 97-G-1380, In the Matter of Issues Associated with the Future of the Natural Gas

of the LDC distribution function from the competitive merchant function would maximize competition and customer benefits.”⁴ In order to effectuate its vision, the Commission directed the LDCs to further unbundle rates such that distribution and gas purchase costs are separated, holding that “we believe it important to establish competitive service unbundled rates....”⁵

The Commission’s mandate for unbundled gas rates includes Corning Gas and its customers. Specifically, in addition to the Commission directives cited above, pursuant to the Gas Rates Joint Proposal approved by the Commission on May 22, 2006, Corning Gas was required to develop proposed unbundled rates by April 2, 2007.⁶ Upon information and belief, the required unbundled rate proposal has yet to be filed. Any further delays should not be countenanced. Moreover, in order to comply with the unbundling requirement, Corning Gas should not be permitted to continue to impose minimum charge provisions for

Industry and the Role of Local Gas Distribution Companies, Policy Statement Concerning the Future of the Natural Gas Industry in New York State and Order Terminating Capacity Assignment (issued November 3, 1998) at 4.

⁴ Id.

⁵ Case 00-M-0504, Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets, and Fostering the Development of Retail Competitive Opportunities – Unbundling Track, Statement of Policy on Unbundling and Order Directing Tariff Filings (issued August 25, 2004) at 2.

⁶ Case 05-G-1359, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Corning Natural Gas Corporation for Gas Service, Order Setting Gas Delivery Service Rates, Adopting Performance Targets and Incentives, Allowing Deferral and Rate Recovery of Certain Costs, and Crediting Customers with \$1.4 Million of Prior Gas Commodity Costs, at 43 (May 22, 2006); (*see also* Joint Proposal at 35.)

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gas supply upon S.C. 7 transportation customers. The current practice forces customers to purchase 250 Mcf of Company-owned gas as a prerequisite to transportation service. As stated above, there is no cost basis for this requirement. Moreover, application of the fluctuating GAC is not conducive to efficient and intelligent load and cost management by consumers. As a result, maintaining the current tariff requirements is not consistent with the Commission's mandate for unbundling and would represent a major step backward in the development of natural gas markets in New York and set a dangerous precedent for other LDCs statewide.

Accordingly, based on the foregoing, as a condition of approval of its requested rate increase, Corning Gas should be directed to unbundle its rates and remove gas supply charges requirements from its transportation rates.

Very truly yours,

COUCH WHITE, LLP



James S. King

JSK/sem

cc: Hon. Rafael A. Epstein (via email)
Kevin Brocks, Esq. (via email)
Brian Ossias, Esq. (via email)
David Prestemon, Esq. (via email)

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