



National Fuel

comments

February 8, 2002

VIA HAND DELIVERY

Hon. Janet Hand Deixler
Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350


Re: Case 00-G-1858 – In the Matter of Gas Restructuring for National Fuel Gas Distribution Corporation

Dear Secretary Deixler:

Enclosed please find an original and 25 copies of the Statement of National Fuel Gas Distribution Corporation in Support of Joint Proposal in the above-captioned proceeding.

Thank you for your attention to this matter.

Respectfully submitted,

Michael W. Reville 
Michael W. Reville, Esq.

cc: All Parties

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CASE 00-G-1858 - In the Matter of Gas Restructuring for National
Fuel Gas Distribution Corporation

STATEMENT OF NATIONAL FUEL GAS DISTRIBUTION CORPORATION
IN SUPPORT OF JOINT PROPOSAL

On January 30, 2002, the Secretary of the Public Service Commission issued a Request for Comments on A Joint Proposal ("Request") in the above-referenced proceeding. The Request invited "interested persons" to submit comments on a Joint Proposal executed by various parties and filed by National Fuel Gas Distribution Corporation ("Distribution" or the "Company") on January 23, 2002 ("Comprehensive Joint Proposal"). For its response to the Secretary's invitation, the Company submits the instant Statement in Support of Joint Proposal ("Statement").

PRELIMINARY REMARKS

The Comprehensive Joint Proposal¹ is the product of lengthy and intensive negotiations between sixteen active parties ("Parties"). Despite a great variety of disparate interests, the Parties managed to reach agreement on an extensive range of issues designed to further the Commission's competition agenda, promote the sale of indigenous natural gas, provide rate relief to a significant number of low-income customers and address

numerous other issues that have not been the subject of previous agreements. The Parties' agreement being unanimous, the Comprehensive Joint Proposal is uncontested. The Comprehensive Joint Proposal is a demonstration of the Parties' willingness to negotiate and compromise a great range of issues in order to produce a comprehensive package that serves all interests consistent with the Commission's competition objectives. While it is noteworthy that all Parties joined in the Comprehensive Joint Proposal, the real test is whether the effort will produce results that benefit consumers. Distribution believes that properly implemented, the Comprehensive Joint Proposal will indeed serve the public interest. For the reasons that follow, Distribution urges the Commission to approve the Comprehensive Joint Proposal for an effective date of April 1, 2002.

BACKGROUND

This case was conducted in three distinct phases. Beginning in July 2000, Distribution, Staff for the Department of Public Service ("Staff") and other interested Parties commenced negotiations designed to achieve a comprehensive and sweeping restructuring of the Company's rates and services in furtherance of the Commission's gas competition initiative. During the course of those lengthy negotiations, two interim agreements were developed and subsequently approved by the Commission. The first

¹ The document's full as-filed title is "Joint Proposal to Achieve a Comprehensive Restructuring of the Rates and Services of National Fuel Gas Distribution Corporation."

agreement, concluding Phase I, addressed Distribution's base rates and revenue requirement for a three-year period beginning October 1, 2000. The Phase I agreement was adopted by the Commission in an order issued on October 23, 2000. Case 00-G-0095, Order Establishing Rates for Gas Service (issued October 23, 2000) ("Rate Order").² In the next phase of negotiations, the Parties focused on transportation-related issues that warranted implementation prior to completion of a comprehensive restructuring. The Phase II negotiations yielded a Interim Joint Proposal that was approved by the Commission on May 30, 2001. Case 00-G-1858, Order Concerning Joint Proposal (issued May 30, 2001) ("Interim Joint Proposal").³ The Interim Joint Proposal was approved by the Commission with an understanding that the Parties would continue negotiating to develop an agreement that would "address and resolve all of the outstanding issues raised by the Commission in its various orders aimed at the restructuring of the natural gas industry in New York." Interim Joint Proposal at 7.

As agreed, the Parties resumed negotiations following approval of the Interim Joint Proposal. On January 18, 2002, the Comprehensive Joint Proposal was executed and filed with the Commission on January 23, 2002.

² Case 00-G-0095, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation, Order Establishing Rates for Gas Service (issued October 23, 2000).

³ Case 00-G-1858, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation, Order Concerning Joint Proposal (issued May 30, 2001).

DESCRIPTION OF COMPREHENSIVE JOINT PROPOSAL

The Comprehensive Joint Proposal focuses primarily on the Commission's restructuring initiative. In a Policy Statement issued in 1998, the Commission established a "vision for the future of the natural gas industry." Case 93-G-0932 et al., Policy Statement Concerning the Future of the Natural Gas Industry in New York State (issued November 3, 1998) ("Policy Statement"). The Commission's discussion identified a number of broadly-stated objectives. Briefly summarized, they included:

- Separation of the LDC distribution function from the competitive merchant function would maximize competition and customer benefits;
- LDCs will continue to be the provider of last resort for gas service;
- No compromise in system reliability will be permitted;
- Enhanced customer education is needed to facilitate the transition to a competitive market; and
- Market power issues should be addressed.

In a subsequent clarifying order, the Commission detailed information requirements for utilities that elected to file restructuring plans envisioned in the Policy Statement. Case 93-G-0932 et al., Order Clarifying Gas Policy Statement (issued April 1, 1999) ("Clarifying Order"). The Clarifying Order suggested that LDC filings, if submitted, should address "the separation of distribution, gas purchase costs, and other

distribution cost elements, the identification of changes that would promote competition, and any other rate design changes (including any low-income proposals)." Clarifying Order at 5.

Although the Comprehensive Joint Proposal did not originate as a restructuring filing under the Policy Statement, the Parties were guided by the principles adopted in the Policy Statement and Clarifying Order, as well as other competition-related documents issued by the Commission and Staff.⁴ For Distribution, the overarching concern through negotiations was preservation of reliability consistent with the Commission's express statements and the Company's long-term obligations.⁵ Competition remains an experiment for the utility industry, and the Parties endeavored to fashion a restructuring proposal that promotes customer choice without compromising reliability.

A. Transportation Services Changes

The Comprehensive Joint Proposal devotes a significant amount of attention to changes in Distribution's transportation (i.e. delivery) services. On an annual basis, approximately one-third of Distribution's throughput is composed of customer (or marketer) owned gas. Transportation service underlies the Company's aggregation tariff, Service Classification ("SC") No.

⁴ See also Case 99-M-0631, In the Matter of Customer Billing Arrangements; Case 98-M-0667, In the Matter of Electronic Data Interchange.

⁵ The goals set forth in the Policy Statement were not identified as concrete objectives. Reflecting sound consideration for changing circumstances, there are recommendations that the Commission's initial timetable for terminating the utility merchant function be moderated. See Case 00-M-0504, Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in

19, and is used on a stand-alone basis by almost all of the Company's large-volume customers. Rather than arranging their own supplies of natural gas, the overwhelming majority of transportation customers, and all small transportation customers, rely on marketers to purchase gas and schedule deliveries. As a result, the Company's transportation and transportation-related services are designed largely for marketers. Thus with the input of marketers, Staff and other Parties, those services have been revised in the Comprehensive Joint Proposal.

To begin with, the Comprehensive Joint Proposal provides that the upstream capacity options currently available for aggregation service will be simplified. As directed by the Commission in its restructuring orders, marketers are responsible for acquiring pipeline and storage capacity upstream of Distribution in allocations adequate to serve customers enrolled in the marketer's aggregation group. As more fully explained in the Comprehensive Joint Proposal (at pp. 8-9), the current menu of options will be rationalized so that marketers meet the Company's tariff requirement by securing their own upstream capacity.⁶ This change involves eliminating two options that, because they require mandatory release of Company-held capacity, are no longer consistent with the Commission's objectives.

Competitive Energy Markets and Fostering Development of Retail Competitive Opportunities, Recommended Decision (July 13, 2001).

⁶ As authorized by the Commission, the Company's tariff requires that marketers take release of an allocation of Distribution's "intermediate capacity" on National Fuel Gas Supply Corporation ("Supply Corporation"). The changes proposed in the Comprehensive Joint Proposal apply to capacity upstream of Supply Corporation.

In connection with the above change to the Company's capacity rules, the Company has agreed to perform a study of its intermediate capacity needs for the purpose of (1) determining the most reliable "mix" of capacity options on Supply Corporation; and (2) establishing terms and conditions of service under which marketers may supply their own intermediate capacity from Supply Corporation or a comparable alternative. The purpose of this provision of the Comprehensive Joint Proposal is to provide a means for the Parties to explore different capacity options on Supply Corporation and alternative paths, if available, without compromising reliability or system performance.

The Comprehensive Joint Proposal also proposes a change in the pricing mechanism for storage gas transferred when customers are switched between Distribution and marketer aggregation groups. The new method would price storage transfers at a rate equal to the cost of gas charged to Distribution's customers when gas is injected or withdrawn from storage. By reducing the marketers' cost of storage transfers, this change will help to simplify and promote new customer enrollments on a year-round basis. Storage requirements are further modified with proposed changes to inventory targets designed to clarify operations and assure that marketers have sufficient supplies in storage to meet anticipated demand.

An "exchange fee" currently applied to imbalance trades among marketers will be eliminated under the Comprehensive Joint

Proposal. In addition, ordinary imbalance charges will be applied only after the imbalance trading period. This will allow marketers an opportunity to resolve their own imbalances and avoid the imposition of the Company's ordinary imbalance charge. In so doing, the change increases flexibility for marketers without compromising reliability. Also enhancing flexibility, large-volume stand-alone customers receiving service under the Company's "CBA" tariff⁷ will be allowed to resolve month-end imbalances with gas from the customer's (or marketer's) storage service on Supply Corporation.

The Company's tariff requires large-volume customers converting from sales service to stand-alone transportation service after 1996 to take an allocation of upstream capacity. The capacity requirement will be eliminated, creating a cost saving opportunity for those customers. If those transportation customers want to return to Company sales service, it would be provided (if available) at a rate established independent of the standard Gas Adjustment Clause ("GAC") rate. A separate GAC will protect residential and other traditional GAC services from incurring additional costs that may arise from providing sales service to transportation customers. The Comprehensive Joint Proposal also proposes similar treatment for smaller-volume capacity-exempt customers who wish to retain their capacity exemption.

⁷ CBA service is "Customer Balancing and Aggregation" service under SC No. 18. It is an imbalance "netting" service designed to provide an

As an extra measure to help preserve reliability when service to firm customers is "jeopardized or impaired," the Parties agreed that the Company should impose a surcharge for imbalances during a so-called "Unauthorized Period" before imbalance trading. Recognizing the planning needs of marketers, the Comprehensive Joint Proposal also reflects the Company's agreement to provide notice of an Unauthorized Period using the same well-established procedure that applies to System Maintenance Orders and Operational Flow Orders.

In response to marketer desires to gain access to intermediate capacity primary receipt points with primary delivery points on upstream pipelines feeding into the intermediate capacity, the Comprehensive Joint Proposal includes a procedure to allocate such points on a first-come, first-serve basis. Also with respect to upstream and intermediate capacity, the Company will modify its transition surcharge mechanism to recover the cost of capacity stranded as a result of customer migration from sales service to marketer-provided service. This means there will be no surcharge without the occurrence of a recoverable cost.

The Parties also agreed that the Company will within 30 days of an order approving the Comprehensive Joint Proposal identify an officer-level representative to address marketers' unresolved concerns and serve as a liaison between marketers and the Company. In addition, a marketer satisfaction survey will be

additional capacity and nomination management tool for marketers

developed jointly by the Company and Staff to serve as an evaluation mechanism to measure marketers' satisfaction with the Company.

Finally, the Comprehensive Joint Proposal provides that the Parties will study whether daily balancing for stand-alone transportation service is appropriate on Distribution's system. A procedure for evaluating such a program is detailed in the Comprehensive Joint Proposal.

B. Backout Credits

The Parties are recommending approval of "backout credits" as a means of reducing marketer costs. The Commission has approved backout credits in other utility proceedings.⁸ The backout credits in the Comprehensive Joint Proposal are sizable - \$3.30⁹ for marketers performing their own billing function and \$1.60 for marketers using the Company's billing service. In carefully chosen words, the Comprehensive Joint Proposal explains that the backout credits were developed "using embedded costs as a guide." That is, the Parties undertook to develop cost-based backout credits, failed to reach agreement, and instead settled on a compromise that lay within the range of embedded costs claimed by various parties. Thus while the backout credits arose

serving traditional "stand-alone" end users.

⁸ 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 ("POLR Unbundling Track") Order Directing Expedited Consideration of Rate Unbundling (issued March 29, 2001) at 4.

⁹ Most customers served by marketers on Distribution's system receive a marketer-provided consolidated bill. Together with the

from discussions relating to embedded cost data, they do not reflect either the Company's identified avoided costs over any period of time or its view of long run incremental costs. Nonetheless, the Company agrees that if reduced marketer costs will promote marketer participation, then the backout credits, by reducing marketer costs, will help achieve that goal.

In recognition of the Commission's interest in establishing cost-based unbundled rates, the Parties have agreed that the Comprehensive Joint Proposal will not be interposed as a means to avoid compliance with the Commission's orders issued in the POLR Unbundling Track. Toward that end, the Comprehensive Joint Proposal provides that the backout credits will be applied until the earlier of September 30, 2003 or the effective date of tariffs filed in response to POLR Unbundling Track orders and designed, of course, to replace the backout credits.

The Parties agreed that the backout credits should be applied for the period beginning October 1, 2001 forward. The credits will be provided to marketers as a lump sum for the period between October 1, 2001 to the effective date of tariff amendments implementing the Comprehensive Joint Proposal. To receive such credits, however, a marketer will be required to affirm to Staff that at least 50% of the lump sum credit related to the period from October 1, 2001 to December 31, 2001 will be credited to customers enrolled with the marketer as of January 1, 2002. The lump sum credit will be available after the effective

existing billing backout credit, the total of backout credits available

date of the tariff amendments implementing the Comprehensive Joint Proposal.

Reflecting the previous agreement,¹⁰ the Comprehensive Joint Proposal provides that the Company will be kept whole on a current basis for revenue deficiencies resulting from the backout credits.¹¹ Backout credit costs will be recovered through a mechanism funded by the Gas Restructuring Reserve ("GRR" described infra) and upon depletion of the GRR, a surcharge applied to the delivery charge for all customers except customers receiving service at negotiated rates. It is intended by the terms of the Comprehensive Joint Proposal that the Company recover for revenue deficiencies up to the agreed-upon level of the backout credit through September 30, 2003, even if the backout credit is replaced with unbundled rates approved pursuant to the POLR Unbundling Track. If revenue deficiencies resulting from rate unbundled pursuant to the POLR Unbundling Track exceed the amount of recovery proposed through the mechanism in the Comprehensive Joint Proposal, the Company may defer and request recovery of the excess deficiency.

The backout credits are consistent with the Commission's goal to promote competition. The requirement that gas

each month for single-retailer marketers is \$4.10 per customer.

¹⁰ Rate Order, Agreement at 5, paragraph no. 6.

¹¹ The Rate Order also identified costs resulting from billing and metering backout credits. In the Joint Proposal, billing backout credits are treated separately, but the Parties agreed that to the extent Distribution receives approval from the Commission for recovery of net revenue deficiencies resulting from the billing backout credit, such revenues may be recovered on a current basis through the mechanism described herein.

corporations stand ready to provide bundled sales service to applicants remains unchanged despite the succession of restructuring orders. None of the Parties in this proceeding have expressed a belief that Distribution's traditional obligations will diminish during the term of the Comprehensive Joint Proposal, or even in the foreseeable future. While the backout credits may be an acceptable short-term means of promoting competition, absent the cost recovery mechanism proposed by the Parties, Distribution would be unable to reduce its costs sufficiently to offset the revenues lost to the backout credit. Particularly when considered with the totality of the Comprehensive Joint Proposal, cost recovery in the amount and in the manner proposed by the Parties is reasonable.

C. Producer Issues

In what is perhaps unique among the state's utilities, approximately five percent of the gas flowing on the Company's system comes from production within its New York franchise area. Marketers serving large-volume transportation customers purchase and re-sell nearly all of those supplies. Early in the proceeding an ad-hoc committee was organized¹² to discuss issues relating to local production. The committee focused its efforts primarily on two matters. The first was to enhance the availability of local production for small-volume aggregation customers without compromising reliability. The second was to

¹² All Parties were invited to participate. Meetings were attended by producers, IOGA and Norse/Nornew. Staff was routinely consulted and advised of the committee's deliberations and agreements.

establish terms and conditions to govern interconnection of local production to Distribution's pipeline system. Based on the committee's efforts and additional input from Staff, the Parties reached consensus on the matters addressed.

A standard-form Producer Interconnection Agreement was developed together with a generic "Interconnection Policy and Procedures." The Producer Interconnection Agreement governs such matters as gas quality requirements (including heat content), metering, title, liability and other issues. The Interconnection Policy and Procedures establish principles regarding interconnection and procedures for interconnection applicants.¹³ The Parties also reached agreement on a "Receipt Facility Maintenance Fee," plus a schedule of additional testing charges, for interconnection meter station inspection, maintenance, data gathering and administration costs.

Currently the Company's tariff requires that local production used for aggregation service meet the same daily metering standard that applies to gas delivered into Distribution's system by pipeline companies. Given the much smaller volumes of gas delivered through local production interconnection points, the daily metering requirement is

¹³ Although the Producer Interconnection Agreement was drafted to govern interconnections between producers and the Company's system, the Interconnection Policies and Procedures were developed with significant input from a pipeline party to the proceeding, and as a result are intended to apply to producers and pipeline companies alike. In separate negotiations, the Company and Norse Pipeline, LLC, with the assistance of Staff, together developed a standard-form interconnection agreement to meet the unique operating characteristics of an intrastate pipeline. That pipeline interconnection agreement will be filed with

relatively expensive.¹⁴ The Comprehensive Joint Proposal provides that where telemetric equipment is not installed, 60% of the historical average daily production for the month will be made available to meet the percentage of extreme day requirements otherwise served by capacity upstream of the intermediate pipeline. For example, 60% of a local production pool would be accepted as an alternative to upstream capacity for providing service to the marketer's small-volume aggregation group. The 60% level established by the Parties may be revisited in future discussions (to commence 90 days after approval of the Comprehensive Joint Proposal) and adjusted if warranted by the circumstances.

D. Accounting Pools

Continuing a practice established in previous agreements, the Parties propose that two existing deferral accounts be continued to fund future expenses and costs. The Cost Mitigation Reserve ("CMR") will be continued to fund the items listed in the Comprehensive Joint Proposal (beginning on page 32) and detailed in Appendix D thereto. The GRR will be used to fund backout credits (in the amount experienced under the mechanism described supra) and system enhancements related to restructuring, as

the Commission as an amendment to the Gas Transportation Operating Procedures Manual.

¹⁴ Local production is already utilized for small customer aggregation albeit in relatively small amounts. It is anticipated that waiver of the daily metering requirement, as described herein, may shift local production supplies from existing large-volume transporters to small-volume markets.

detailed in the Comprehensive Joint Proposal, in an amount up to \$5 million.

E. Performance Maintenance Mechanisms

The Parties propose two mechanisms designed to maintain service quality at existing levels. The Service Quality Performance Mechanism addresses customer service in the same manner, with different target levels, as like mechanisms previously approved by the Commission. Also like previous mechanisms, the Service Quality Performance Mechanism is a penalty-only mechanism designed to assure that the Company maintains acceptable levels of customer service.

The Comprehensive Joint Proposal also includes, for the first time, Safety Performance Measures designed for the Company to maintain its pipeline system in the current manner. Like the Service Quality Performance Mechanism, the Safety Performance Measures are intended to maintain performance levels through a penalty-only mechanism.

E. Outreach and Education

In the Policy Statement, the Commission stated that "enhanced customer education is needed to facilitate the transition to a competitive market." Policy Statement at 6. Consistent with that goal, an Outreach and Education Incentive Plan was established by the Parties to evaluate and enhance customer awareness and understanding of gas choice.

F. Low Income Program

The Commission stated in its Clarifying Order (at page 5) that LDC unbundling proposals should include rate design changes "including any low-income proposals." In accordance with the Clarifying Order, the Comprehensive Joint Proposal includes an ambitious program designed to provide rate relief and arrearage forgiveness, among other benefits, to Distribution's low-income customers. The Expanded Low Income Residential Assistance ("ELIRA") Program would modify the Company's current low-income program by greatly increasing enrollment from the existing 2,000 customer level to 30,000 customers. The principal features of ELIRA Program are a one-time arrearage forgiveness of up to \$300 and an annual rate discount of \$100 (\$8.33/month) per account. ELIRA Program funding will be capped as described in the Comprehensive Joint Proposal (pages 41-42).

The Parties have also agreed with the Company that it should continue the Elderly, Blind and Disabled customer assistance program established in 1998. This program provides rate discounts, financial assistance for conservation measures and heating equipment and counseling for elderly, blind and disabled customers who are at risk.

The above programs are consistent with the Commission's goal of assuring that the requirements of low-income and other special needs customers are addressed in restructuring filings.

G. Affiliate Rules

Distribution is a subsidiary of National Fuel Gas Company ("National"), a holding company registered under the federal

Public Utility Holding Company Act of 1935 ("Act"). The Act governs transactions among Distribution, National and National's other subsidiaries, including Supply Corporation and National Fuel Resources, Inc., an unregulated energy services company. The Parties have agreed that in addition to the consumer protections under the Act, Distribution will comply with the Affiliate Rules appended to the Comprehensive Joint Proposal. The Affiliate Rules, if adopted, will further regulate certain transactions between Distribution and its affiliates to insure the fair and non-discriminatory treatment of non-affiliated entities doing business on Distribution's system. Because the Affiliate Rules address a broad spectrum of affiliate transactions, the Parties also agreed that so long as the Company observes the Affiliate Rules, the Commission's "royalty" adjustment may not be imposed. The Affiliate Rules further the Commission's restructuring objectives as provided in the Policy Statement (see, e.g. Policy Statement at 6-7) and other utility restructuring proceedings.

H. GAC Rule Changes

The Comprehensive Joint Proposal adopts GAC changes approved by the Commission in 1999 rule making "to reflect the restructuring of the gas industry." Case 97-G-1178, Memorandum and Resolution Revising 16 NYCRR Section 270.55 (issued April 13, 1999). See 16 NYCRR Part 720. In addition, the Parties propose to change the Company's GAC methodology for pricing of storage gas. The Company's current method for GAC pricing of storage gas

produces a retail commodity rate that reflects prevailing market prices. The seasonal price moderating effect ordinarily associated with storage gas is reflected in the Company's annual reconciliation of gas costs and in the gas storage working capital requirement embedded in base rates. The result is that if winter gas prices are high, retail rates are high. While this produces accurate price signals (based on the posted market price of natural gas), it also passes along the market's volatility. To mitigate such volatility, the Parties have proposed to revise the Company's methodology for pricing of storage gas.

The effect of the overcollection of gas costs in the winter had been reflected in the Company's rates through a reduction in the working capital requirement for gas storage inventory to recognize short term advances by customers. While the proposed change would moderate consumer price volatility, the change in methodology would also raise the amount of working capital the Company needs because short-term gas cost overcollections would be reduced. To remedy that shortfall, the Parties agree that the Company should be permitted to transfer a small portion of the current annual reconciliation (described below) to the CMR for the purpose of funding the resultant working capital shortfall through the term of the Comprehensive Joint Proposal.

Finally, the Parties reached agreement on an alternative to the annual reconciliation refund that would have been applied to customer bills beginning January 1, 2002. Rather than passing along the refund through the monthly GAC, as is required by the

Commission's regulations, the Parties agreed that it should be provided to eligible customers as a lump-sum credit applied to February bills. Two purposes would be served by the proposal: It would provide customers with substantial bill relief in a cold winter month, and by eliminating the refund from the monthly GAC, it would prevent a utility service price distortion that might have harmed competition. Given the timing, the proposal was submitted to the Commission prior to execution of the Comprehensive Joint Proposal and approved in an order issued on December 27, 2001.¹⁵

In another change to gas cost procedures, the Parties agreed that the Company's incentive/penalty target for lost-and-unaccounted-for ("LAUF") gas to be applied during the three fiscal years beginning October 1, 2001 should be reduced to 2% from the previous 2.3%. In addition, transportation customers will receive credit to reflect a retroactive adjustment to the shrinkage factor (based on the LAUF percentage). Transportation customers are required to deliver gas to the Company's city gate in amounts sufficient to meet their customers' consumption needs plus an additional amount to compensate for "shrinkage" equal to the LAUF. The shrinkage factor will also be changed prospectively to reflect the revised LAUF.

¹⁵ Case 01-G-1472, In the Matter of the Filing of Annual Reconciliation of Gas Expenses and Gas Cost Recoveries, Order (issued December 27, 2001).

I. Unbundled Rates

In addition to the unbundling of rates that will be performed pursuant to the POLR Unbundling Track, the Comprehensive Joint Proposal provides that there will be an "initial unbundling" of the Company's current sales rate into delivery (or transportation) charges and natural gas supply charges. These changes, together with the alignment of unbundled transportation charges with the delivery component of sales rates, will help customers shop among marketers by providing better means to compare prices.

The Parties have also agreed to explore a revised billing format to clarify and improve understandability of residential bills. The Parties have also agreed to address changes for future presentation of unbundled rate components.

DISCUSSION

A. The Comprehensive Joint Proposal Furthers the Commissions Restructuring

As detailed above, the Comprehensive Joint Proposal incorporates changes contemplated in a succession of Commission restructuring orders and the Policy Statement. Changes to transportation services were designed with the direct input and upon the suggestion of marketer parties doing business on the Company's system. The Parties together helped fashion proposals that will modify Distribution's rates and practices in order to promote competition. As contemplated by the Commission, these

changes are intended to benefit retail customers by improving the business environment for marketers. Customers will also experience direct and in some cases immediate benefits from other provisions of the Comprehensive Joint Proposal.

While the Comprehensive Joint Proposal promotes competition as envisioned by the Commission, it does not do so at the expense of reliability. This is consistent with the Commission's interest expressed in the Policy Statement. The provision of safe and adequate gas service remains Distribution's legal obligation and corporate mission. The Parties' recognition of this overriding concern is reflected in the terms of the Comprehensive Joint Proposal.

B. The Comprehensive Joint Proposal Meets the Standards Required Under the Commission's Settlement Rule and Guidelines

The Comprehensive Joint Proposal effectively balances interests among diverse and normally adversarial parties. It is consistent with the Policy Statement and other objectives of the Commission. If approved, the Comprehensive Joint Proposal would produce results that are within the range of reasonable results that would likely have arisen from a litigated proceeding. As noted above, the Comprehensive Joint Proposal reflects the agreement of a uniquely diverse range of interests, including Parties pursuing interests not contemplated in the Policy Statement. To the extent that any litigation would have used the Policy Statement as its guide, as would reasonably be assumed, those extraneous issues would not be addressed, and the


beneficial results would not be realized, in this proceeding.
The sheer volume and scope of information exchanged between the Parties in an environment that promoted the free exchange of ideas helped produce an outcome that would not be achievable in litigation.

CONCLUSION

For all of the foregoing reasons, Distribution respectfully requests that the Comprehensive Joint Proposal be approved for an effective date of April 1, 2002.

Respectfully submitted,

NATIONAL FUEL GAS DISTRIBUTION
CORPORATION

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and

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Dated: February 8, 2002