



August 27, 2018

VIA ELECTRONIC FILING

Hon. Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 15-M-0252 - In the Matter of Utility Energy Efficiency Programs
Case 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy
Efficiency Portfolio Standard
Case 16-G-0257 - Proceeding on Motion of the Commission as to the Rates, Charges,
Rules and Regulations of National Fuel Gas Distribution Corp. for
Gas Service

Dear Secretary Burgess:

Enclosed for filing is the Verified Petition for an Enhanced Safety Pilot Program and Energy Efficiency Initiatives of National Fuel Gas Distribution Corporation ("National Fuel" or the "Company"). The Petition contains the Company's proposal to implement a new safety pilot program along with enhanced energy efficiency initiatives in alignment with important state goals and requests authorization to:

- (i) implement a new safety pilot program designed to fund new and expanded natural gas safety improvement programs and activities in the areas of damage prevention caused by the excavation activities of third parties, leak management to continue to reduce outstanding leak backlogs, equipping and training first responders in connection with natural gas emergencies, and extend the sunset date of the Company's System Modernization Tracker to continue the accelerated replacement of leak prone pipe;
- (ii) implement several enhancements to the Company's Low Income Usage Reduction Program and furnace repair and replacement program to achieve the State's dual goals of enhanced energy efficiency and low income customer protection;
- (iii) allow the Company to fund such programs by utilizing the unspent balance of its Conservation Incentive Program relating to the 2012 to 2015 program years; and
- (iv) amend Tariff Section 0, Leaf 120 of the Company's existing Tariff No. 9 to extend the sunset date of the System Modernization Tracker.

The Company respectfully requests that the Commission grant the relief requested in this Petition on an expedited basis to enable the Company to promptly commence the programs in connection with the onset of the 2018-2019 winter heating season.

Also enclosed is a draft notice of proposed rulemaking pursuant to 16 NYCRR §3.5(i) and the State Administrative Procedure Act for publication in the New York State Register. Please do not hesitate to contact me at (716) 857-7797 or DelvecchioJ@natfuel.com if you have any questions regarding this filing. Thank you.

Respectfully submitted,



Joseph N. Del Vecchio
Vice President and Chief Regulatory Counsel

cc: DMM Active Party List in Cases 07-M-0548, 15-M-0252 and 16-G-0257 (via e-mail)
Bruce V. Miller, Esq., Cullen and Dykman LLP (via e-mail)
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***VERIFIED
PETITION***

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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:
National Fuel Gas Distribution Corporation :
Petition for Enhanced Safety Pilot Program and : **Case 15-M-0252**
Energy Efficiency Initiatives : **Case 07-M-0548**
: **Case 16-G-0257**
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**VERIFIED PETITION ON BEHALF OF NATIONAL FUEL GAS
DISTRIBUTION CORPORATION REGARDING ENHANCED
SAFETY PILOT PROGRAM AND STRENGTHENED ENERGY
EFFICIENCY INITIATIVES WITH REQUEST FOR EXPEDITED
CONSIDERATION**

INTRODUCTION

1. This Petition, duly verified by Kevin House, Vice President, is submitted by National Fuel Gas Distribution Corporation (“National Fuel” or “the Company”) to respectfully request authorization to (i) implement an enhanced safety pilot program (“Enhanced Safety Pilot Program”) designed to fund new and expanded natural gas safety improvement programs and activities in the areas of: damage prevention caused by the excavation activities of third parties, leak management to continue to reduce outstanding leak backlogs, equipping and training first responders in connection with natural gas emergencies, and continued replacement of leak prone pipe at an accelerated pace, and (ii) implement several enhancements to the Company’s Low Income Usage Reduction Program and furnace repair and replacement program (collectively, “Low Income Enhancement Program”) to achieve the State’s dual goals of enhanced energy efficiency and low income customer protection.

2. The measures proposed herein will not only serve the important goals of improving safety and affordability for the Company’s customers, but many of these measures also will have the enhanced benefits of (i) reducing methane emissions by minimizing gas leaks caused by third

party excavation damages, accelerating the replacement of aging facilities, and reducing the backlog of leaks, and (ii) reducing the carbon footprint of our low income customers by aiding in weatherization efforts, and improving the energy efficiency of furnaces used by our low income customers that will reduce the overall amount of natural gas consumed.

3. This Petition will show that these important benefits can be achieved within the framework of existing rates because the Company is proposing a funding source for the Enhanced Safety Pilot Program and Low Income Enhancement Program, as further described herein, that would minimize bill impacts and preserve base rate stability. On October 25, 2011, the Commission issued its Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (“2011 Order”),¹ which directed the Company to operate its energy efficiency program (“Conservation Incentive Program” or “CIP”) as part of the Energy Efficiency Portfolio Standard (“EEPS”) and established funding for the 2012 through 2015 program years, among other things. Pursuant to the Commission’s Order Authorizing the Conclusion of the Energy Efficiency Portfolio Standard,² the Company currently has an unused CIP balance relating to the 2012 to 2015 program years of approximately \$6,948,554, which is composed of \$5,813,412 of principal and \$1,135,142 of accumulated interest.³ Unless directed in the manner proposed herein, that amount will remain unused and interest will continue to accumulate. National Fuel already has a separate, Commission-approved funding stream to operate its CIP during the 2018 through 2020 program years which is entirely different and apart from the unused cash balance described above.

¹ Cases 07-M-0548 and 07-G-0141 – Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule, issued and effective October 25, 2011.

² Case 07-M-0548 – Order Authorizing the Conclusion of the Energy Efficiency Portfolio Standard, issued and effective November 17, 2017. Ordering Clause 9 directed the utilities, including National Fuel, to file an EEPS Financial Reconciliation Report, which identifies unused balances.

³ Cases 07-M-0548 and 07-G-0141 – National Fuel Gas Distribution Corporation EEPS Financial Reconciliation Report, filed July 2, 2018.

4. Given the availability of the funding source described above, National Fuel estimates that there would be no rate impact for these programs over the pilot term. Contemporaneously with the filing of this Petition, National Fuel is filing a proposed amendment to existing tariff Section 0, Leaf 120 (“Leaf 0-120”) to continue its existing system modernization tracker for an additional two year period beyond its current sunset date of March 31, 2020.

5. Because of the important safety, affordability, environmental and other ratepayer benefits associated with the proposal in this Petition, the Company wishes to implement the measures outlined in its Petition as promptly as possible, and especially before the winter heating season for the Low Income Enhancement Program. Accordingly, the Company respectfully requests that the Public Service Commission of the State of New York (“Commission”) grant expedited review of this Petition, and issue an order granting the relief requested herein on or before the Commission’s December 13, 2018 session so that the Company may begin taking steps to implement the Programs as promptly as possible.

PROCEDURAL BACKGROUND

6. National Fuel is a natural gas-only utility, headquartered in Williamsville, New York and the Company provides service to approximately 532,000 customers in western New York, approximately 496,000 of whom are residential gas customers.

7. The Company’s rates for gas service were last set by the Commission pursuant to its Order dated April 20, 2017 in Case 16-G-0257 (“Rate Order”).

8. National Fuel’s energy efficiency programs originated from Case 07-G-0141, prior to the Commission’s EEPS proceeding, and the establishment of programs at other natural gas

utilities in New York State.⁴ The Commission then issued a series of orders approving the continuation of National Fuel's Conservation Incentive Program.⁵

9. As of the date of this Petition, National Fuel has approximately \$6.9 million of unspent funds in its CIP program related to the program years 2012 – 2015, the disposition of which will not affect the current level of funding for ongoing programs. These funds are not presently being used to provide any current program benefits and have been reserved for future use in connection with programs having a major ratepayer benefit. The Company believes that the important safety and low income efficiency programs described herein will provide significant benefit to National Fuel's customers and accordingly merit the use of the unspent CIP monies to fund the projects on a pilot basis.

THE PROPOSED ENHANCED SAFETY PILOT PROGRAMS

A. Pilot to Test the Reduction of Third Party Excavation Damage Through the Use of Damage Prevention Inspectors

10. One important element of National Fuel's proposed enhanced safety programs is a pilot program to retain contracted damage prevention inspectors to implement a new program for the Company that is designed to reduce damage to the Company's buried natural gas facilities caused by the excavation activities of third parties. Specifically, the Company proposes to reduce the rate of third party line hits per 1,000 one call tickets through the use of damage prevention inspectors to educate and monitor the activity of third party excavators to prevent damage to buried facilities before it occurs.

11. In the Company's last rate case, Case 16-G-0257, Staff's Gas Safety Panel observed that in the case of overall damages to the Company's underground infrastructure,

⁴ Case 07-G-0141 – Order Adopting Conservation Incentive Program, issued and effective September 20, 2007.

⁵ Case 07-G-0141 – Order Approving the Continuation of National Fuel Gas Distribution Corporation's Conservation Incentive Program with Modifications, issued and effective October 19, 2009.

National Fuel performed better than the state average for damages due to Company error and mismarks but trailed the statewide average in the area of third party damages. Staff felt the issue of third party damages caused National Fuel's overall safety performance in this area to suffer (Case 16-G-0257, Tr. 1311):

Distribution currently out performs the statewide levels for both damages due to mismarks, and Company and Company contractors. However, for the total damages area, Distribution's 2015 performance is significantly higher than the statewide average.

12. The Staff Gas Safety Panel further recognized that, while excavator damages were not entirely within the control of National Fuel, there were steps that could be taken to minimize such damages (Case 16-G-0257, Tr. 1312-1313):

Specifically, damages caused by excavator failure to notify Dig Safely NY, sometimes referred to as no-calls, and/or unsafe excavation practices are not totally within the control of the Company. However, the Company can minimize these damages by influencing excavator activity through education and outreach efforts to excavators, by continuing to bill excavators for repair costs when the excavator is at fault, and by referring problem contractors to Department Staff for enforcement purposes. In addition, Distribution should consider developing best practices, in conjunction with other companies affiliated with the Northeast Gas Association and/or other trade associations.

13. National Fuel demonstrated in its rebuttal testimony, however, that "[i]n fact the Company takes all of these steps and more as highlighted in the Company's response to Staff's Annual Performance Measure Report to the Commission, that was attached as Exhibit 187 (KDH-10). Tr. 1216 in the rate proceeding. Notwithstanding the fact that the Company was pursuing all of the specific damage prevention measures recommended by the Staff Gas Safety Panel, its total damages due to third party excavator activity still remained stubbornly higher than the state average. Clearly, an additional approach, involving evolving, industry best practices, would appear to be merited because, as Staff observed in the rate case (Case 16-G-0257, Tr. 1307):

These damages often cause interruptions of service to customers, building evacuations, and road closures. Explosions, fires, injuries, and fatalities are less frequent, but have occurred. Therefore, reducing these types of damages improves public safety.

14. National Fuel is aware of at least three New York utilities that currently employ third party contractors to interface with excavators in the community at large; Consolidated Edison Company of New York, Inc.; Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation. According to Staff's 2017 Gas Safety Report, each of those utilities has a lower third party excavator damage rate than does National Fuel, suggesting that there may be merit to programs that employ third party contractors in this manner.⁶

15. The specifics of the Company's proposed damage prevention inspector pilot are contained in Exhibit A hereto. In the pilot program proposed by the Company, the damage prevention inspectors would be third party contractors retained by National Fuel to interface with third party excavators on their excavation sites. The Company envisions that the damage prevention inspectors will establish supportive relationships with the excavators, answer excavator questions and promote safe excavating practices in accordance with New York requirements. Damage prevention inspectors will have the opportunity to prevent damages to National Fuel facilities by serving as an immediate reminder to the excavator to follow safe digging practices.

16. Under the proposed Enhanced Safety Pilot Program, National Fuel would enter into an agreement with a qualified contractor to provide ten damage prevention inspectors for a two year-long pilot program in two of its service territories with higher third party damage rates. The damage prevention inspectors would be dispatched to third party excavation sites based on

⁶ See, Case 18-G-0260 - In the Matter of Staff's Analysis of Local Distribution Company Performance Related to the Pipeline Safety Measures, 2017 Pipeline Safety Performance Measures Report, June 14, 2018.

the Company's pre-established criteria. National Fuel will select criteria that will focus damage prevention inspectors' attention on higher risk excavations. National Fuel would expect damage prevention inspectors to make a 70% or greater contact rate with excavators on their jobsites. Ultimately, the damage prevention inspectors will establish a positive and supportive relationship with the excavators, in the spirit of imparting better knowledge to excavators in compliance with 16 NYCRR Part 753, Protection of Underground Facilities, and avoiding damage to Company facilities. Damage prevention inspectors will ultimately be viewed as a resource to excavators, and our expectation is that third party damage rates will decrease as a result. During the pilot, the contractor providing the damage prevention inspectors will provide National Fuel with weekly and year to date program reports; the contractor will begin to evaluate effectiveness of the damage prevention inspection program three months into its inception. At the end of the first year of the two year pilot, National Fuel will determine, based on results, if it should continue for the second year.

17. If the program is approved, the Company anticipates that it would enter into a contract with a third party contractor, possibly On the Mark Utility Management Services ("OTM") or a similarly qualified entity, to provide and train the inspectors. As noted above, the program would eventually employ 10 damage prevention inspectors within the selected service areas to evaluate the program for a defined period.

18. In terms of cost, the Company envisions that for the term of the pilot, there will be an annual cost of approximately \$850,000, for a total pilot cost of \$1.7 million for the two year pilot. Of course, the amount actually charged for the program would be based on actual, audited invoices from the selected contractor. The Company will evaluate the program on an on-going basis and, if it produces beneficial effects on the third-party damage rate, National Fuel will seek

future Commission approval to continue and expand the program beyond its initial two year term, with a request for further funding.

B. Enhanced 8-1-1 Messaging on Company Vehicles

19. Approximately 1/3 of all excavation damages on the Company's system are a result of excavators not calling 8-1-1 to determine underground utility locations, prior to excavating. Many of these "no-call" damages are a result of homeowners using hand excavation tools while performing outdoor home improvements.

20. National Fuel already engages in a significant damage prevention advertising campaign through the use of billboards, customer bill insets, print, digital, radio and most recently through social media. In order to further our outreach, the Company is proposing a mobile billboard advertising campaign through the use of enhanced "8-1-1" and "Call Before You Dig" messaging on Company vehicles through the use of vehicle advertising wraps. The Company's approximately 235 customer service and construction vans drive thousands of miles throughout our western New York service territory on a daily basis.

21. If the program is approved, the Company would allocate \$200,000 to apply mobile billboard vehicle wraps with damage prevention messaging to approximately 130 Company service and construction vans (assuming an average cost of approximately \$1,500 per vehicle) in order to evaluate the effectiveness of this messaging. The messaging would be designed to target excavation with hand tools as well as mechanized equipment.

C. Enhanced Leak Backlog Reduction Program

22. The Enhanced Leak Backlog Reduction Program would involve hiring, training, and deploying additional construction crews to reduce Type 3 leak backlogs to a "working backlog" level that can be managed on an ongoing basis by Company construction forces. This program would be in addition to the Company's ongoing program to manage repairable Type 2

and Type 2A leak backlogs and leak reductions associated with the replacement of leak prone pipe. The majority of the leaks that will be targeted under the Enhanced Leak Backlog Reduction Program are located in rural areas, do not present a hazard to our customers or the public, and are on lines that do not yet have sufficient leak history to justify pipe replacement. In accordance with 16 NYCRR Part 255, these leaks are monitored on an annual basis to insure that they do not become a hazard and that conditions have not worsened. The proposed Enhanced Leak Backlog Reduction Program would result in lower methane emissions and is consistent with initiatives under the Federal Environmental Protection Agency Natural Gas STAR Methane Challenge Program.

23. As an additional element to this program, the Company will evaluate emerging technology to measure methane emissions from existing leaks with a goal of identifying the highest emitting leaks for quicker repair. The Company would propose a two year pilot term and an annual budget of approximately \$1.025 million for this element of the Enhanced Safety Pilot Program, with the details of a two year pilot budget set forth in detail in Table 1, below:

**Table 1. Enhanced Leak Backlog Reduction Plan
Cost Analysis For
Two Year Pilot Period**

Additional Resources Required	Cost
Cost of Labor	\$ 880,090
Cost of Vehicles/Tools	\$ 189,280
Cost of Materials	\$ 263,477
Cost of Restorations	\$ 718,157
Total Pilot Cost	\$ 2,051,003

D. First Responder Natural Gas Assistance Program

24. National Fuel has also become aware of a potentially valuable safety enhancement program being pursued by Consolidated Edison that would appear to have value to the residents and businesses of Western New York.

25. In Case 14-G-0201, the Commission recently approved a program proposed by Consolidated Edison that would provide gas monitoring and gas clearing equipment to the fire departments in that company's service territory.⁷

26. The Consolidated Edison program provided for the purchase of devices such as remote methane leak detectors to enable methane monitoring and detection at a safe distance as well as gas measurement instruments that will help to quantify the amount of gas in the atmosphere when fire department personnel arrive on scene in response to a gas odor notification. Because this is a pilot program and the Consolidated Edison program is just in its inception, the program envisioned by National Fuel would be more limited than the expansive program proposed by Consolidated Edison in New York City and Westchester County. The Company would propose to purchase disposable multi-gas detection units and make such units available to fire departments in municipalities across its service territory. These units are priced at approximately \$500 apiece, are donned by first responders in an emergency situation and can monitor O₂, CO, H₂S and Methane Lower Explosive Limits. Once turned on, there are no calibration or maintenance requirements to the detector; they remain active and would be provided to fire departments located in the Company's service territory for use in situations deemed appropriate by the various fire departments. After two years, the detectors are replaced

⁷ See Case 14-G-0201, In the Matter of the Investigation Relating to the Explosion and Collapse of the Buildings at 1644 and 1646 Park Avenue, New York, New York in the Service Territory of Consolidated Edison Company of New York, Inc. on March 12, 2014, Order Approving Proposed Use Of Settlement Funds With Modifications, July 12, 2018.

with new units. They are also very user friendly and provide immediate value in protecting first responders during emergency response and potential hazardous atmosphere entry. The Company could begin implementation of this program with fire departments that lack sufficient funds to purchase these detectors. National Fuel would also incorporate training along with the detectors, including carbon monoxide and low explosive limit education for first responders.

27. As with the Consolidated Edison program, National Fuel also proposes to provide potential funding to selected fire departments for the purchase of additional devices and tools that assist these departments in responding to emergency situations. These devices and tools include high power air handlers that aid in venting accumulated natural gas from homes or buildings (e.g., high power intrinsically safe blowers), as well as gas detection units that could be used to detect the presence of gas accumulating in buildings before entry (e.g., remote methane leak detectors). At this time, based on currently available technology and the Order in the Consolidated Edison case, National Fuel would propose a two year pilot term and an overall budget of \$1,004,400 for these elements of the Enhanced Safety Pilot Program. In addition, National Fuel would also propose certain enhancements to its existing fire training facilities, such as installation of concrete barriers and new non-flammable gravel base materials for its fire field. These facilities are currently used to field train our employees on performing fire standby duties, as well as local fire departments interested in live natural gas fire training. National Fuel would propose a budget of \$40,000 for such enhancements to its fire training facilities. The details of the overall budget for a two year pilot of the First Responder Natural Gas Assistance Program are set forth in detail in Table 2, below:

**Table 2. First Responder Natural Gas Assistance Program
Cost Analysis For Two Year Pilot Period**

Proposed Initiative	Description	Estimated Quantity	Estimated Unit Cost	Total Cost
Personal Monitoring Device	Disposable multi-gas detection personal monitoring device, monitors O ₂ , CO, H ₂ S, & Methane LEL.	1,500	\$500	\$750,000
Portable Air Handler	High Power, intrinsically safe air mover for ventilation of hazardous atmosphere.	80	\$1,500	\$120,000
Remote Leak Detection Equipment	Heath Remote Methane Leak Detection or similar units for survey presence of methane in potentially hazardous area.	28	\$4,800	\$134,400
Fire Training Facility Enhancement	Installation of concrete barriers and new non-flammable gravel base materials for fire field, other misc. improvements.	One Time		\$40,000
Total Cost				\$1,044,400

E. Extension of the “Sunset” Provision of the System Modernization Tracker

28. In the Company’s last rate case, the Commission approved the implementation of a “tracker” mechanism that would compensate National Fuel for the modernization of its system through the replacement of leak prone pipe (“LPP”). At present, the system modernization tracker is expected to sunset with the conclusion of the 12 months ended March 31, 2020, as set forth in the Company’s existing tariff Leaf 0-120. As explained below, the Company believes that this sunset provision is too restrictive, unnecessary and not in the public interest. Because this is a current tracker mechanism, there is no need for the devotion of any of the CIP monies to this activity, as it is self-supporting.

29. Under this mechanism, the Company is permitted to recover the costs, including the return on and depreciation of, plant installed to replace LPP. The Order in Case 16-G-0257 stated:

We adopt a LPP tracking mechanism limited to incremental LPP costs that reflect our approved pre-tax rate of return, depreciation rates, property tax rates and uncollectible rates, as adopted herein. The surcharge mechanism will be

available to NFGD for recovery of its incremental LPP costs for a period of three years or until modified by the Commission. To employ the surcharge during the period April 1, 2017 to March 31, 2018, NFGD must show that it removed and replaced incremental LPP above its budgeted levels and exceeded the carrying costs provided for in delivery rates for all of its capital investments.

Case 16-G-0257, Order at 66.

30. The Order, however, also provided for a sunset provision, as follows:

Having considered the Company's position on exceptions, we disagree that the surcharge should be in place without a sunset provision. Three years is a reasonable period for an initial term for the mechanism. In the event NFGD chooses to stay out beyond the period by which the LPP surcharge mechanism is authorized, **the attachment of a sunset date does not preclude the Company from petitioning for the mechanism's continuation.** Through the petition process, however, Staff will be able to evaluate and report on the effectiveness of the mechanism and propose any changes it deems necessary. *Emphasis supplied.*

Id. at 66-67.

31. The tariff designed to be consistent with the Order was approved by the Commission on February 27, 2018 in an Order Approving Tariff Amendments on a Permanent Basis. National Fuel believes, however, that the "sunset" provision contained in the tariff might be inconsistent with the Order, or, in any event is unduly restrictive, as it, likely incorrectly and ambiguously, provided for the modernization tracker to sunset on March 31, 2020. This time period is only two years after the conclusion of the rate year in Case 16-G-0257 and seemingly inconsistent with the Order's view that the tracker should operate for three years.

32. The ambiguity that resulted in the filed tariff arose from the Order's provision stating that "[t]o employ the surcharge during the period April 1, 2017 to March 31, 2018, NFGD must show that it removed and replaced incremental LPP above its budgeted levels..." The twelve months ended March 31, 2018 was the rate year in Case 16-G-0257 and so all of the budgeted LPP replacement for that period was included in base rates. If National Fuel had exceeded its budgeted amounts, the tracker would have operated in the rate year; this did not

occur and the tracker was not activated in the rate year. Consequently, a fair reading of the three year provision for the tracker would have it sunset on March 31, 2021 and not March 31, 2020, because the tracker was not used in the March 31, 2018 rate year.

33. Even if the Commission intended that the three year period should include the rate year in Case 16-G-0257, there are now very compelling reasons to adopt a more lenient sunset period. The Commission has long been in favor of accelerating the replacement of LPP, given the proven safety and environmental advantages associated with the replacement of leaking pipes. National Fuel has mobilized its workforce and construction contractor base to accelerate the removal of LPP, particularly cast iron pipes within the City of Buffalo. The Company needs the long-term continuity of this program to continue to build on the excellent safety results it has achieved, and continues to achieve. At this point, if the system modernization tracker were to continue, National Fuel expects to replace all of its cast iron mains within the next five years and all other types of LPP distribution mains and services within the next 16 years. The Company does not want to lose the momentum it has achieved with its contractor base on this important safety program. In many cases, it is necessary to plan several years ahead for system modernization; extension of the tracker for an additional two years will facilitate planning and continue to yield demonstrable safety and environmental results through the further elimination of existing and potential future leaks. The Company's overall leak backlog now stands at the lowest it has been in over 25 years due to its modernization efforts. As demonstrated in Figure 1, below, the Company's aggressive LPP replacement efforts have provided a meaningful reduction in the overall leak backlog:

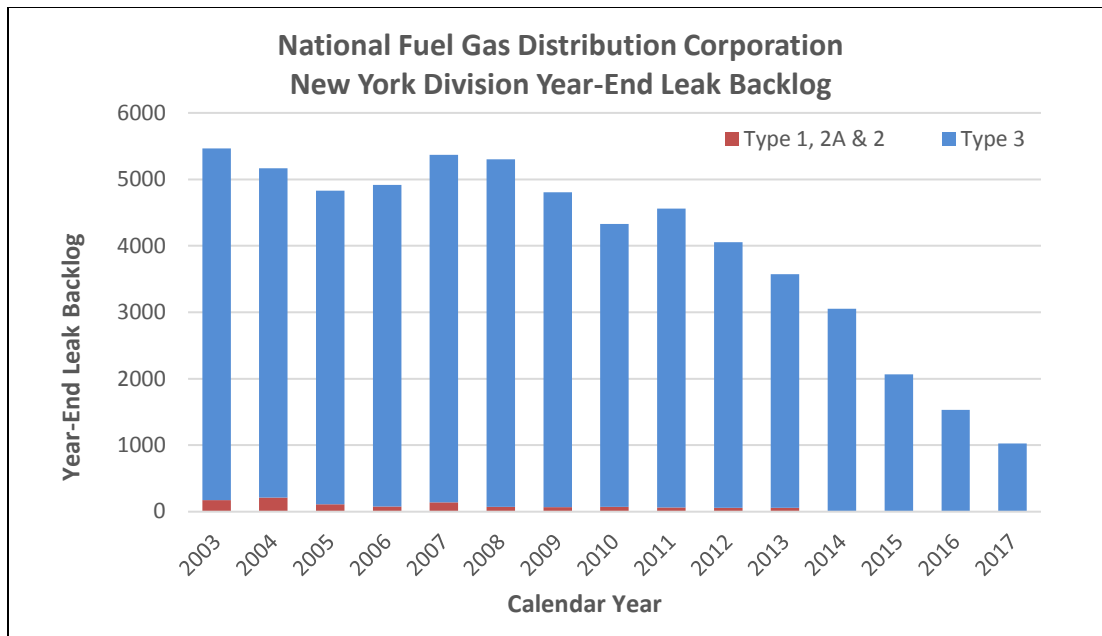


Figure 1

34. Moreover, to the extent that the tracker assists National Fuel in being able to refrain from filing a base rate case, another public good is served. For this reason, the Company respectfully requests that the Commission extend the “sunset” provision of the tracker unless and until the revenue requirement collected by the tracker meets or exceeds the 2.5% gross revenue increase that would implicate the “major rate filing” provisions of Public Service Law section 66(12). National Fuel does not believe that this provision has a chance of being met any time before the expiration of the March 31, 2022 period. For this reason, National Fuel respectfully requests that the tracker not sunset until March 31, 2022, or until a new rate year intervenes, if earlier. The specific tariff changes to Leaf 0-120 to accomplish the Company’s proposal are contained in Exhibit B to this Petition.

**PROPOSED LOW INCOME ENHANCEMENT PROGRAM
NATIONAL FUEL’S CURRENT LIURP AND FURNACE REPAIR AND
REPLACEMENT PROGRAMS SHOULD BE ENHANCED**

35. National Fuel’s current Low Income Usage Reduction Program (“LIURP”) is a

weatherization program within its approved CIP designed specifically for low income customers. Participants receive a heating system check, an energy audit, weatherization measures, an infiltration reduction, natural gas usage reduction measures and consumer education. The program design is consistent with, and is being administered as part of NYSERDA's EmPower New York ("EmPower") program. Contractors follow procedures and guidelines developed for the EmPower program. Households receiving gas efficiency services paid for by the Company are also evaluated by NYSERDA for electric reduction measures. The main goal of LIURP is to conserve energy, reduce residential energy bills, and improve the health, safety, and comfort levels for participating households.

36. Beginning January 1, 2016, as part of LIURP, National Fuel earmarked \$250,000 of incentives and services funding per year for a low income health and safety furnace replacement initiative. This initiative is modeled after the Company's HEAP Heating Equipment Repair and Replacement Program ("HERR"), which historically exhausts funding during the middle of the winter heating HEAP season. To the extent that HEAP eligible owners contact National Fuel directly about old and inefficient heating equipment, malfunctioning heating equipment, or potential safety concerns, especially during the winter heating season, the Company would be able to have a contractor promptly install a high efficiency furnace and programmable thermostat at no cost to the owner. The proposed furnace replacement initiative: (1) augments existing limited health and safety protocols currently in place as part of LIURP and EmPower, (2) supports the primary goal of LIURP, (3) helps prevent emergency situations for customers due to an underfunded portion of HEAP programming or a general lack of available options, and (4) produces energy savings by replacing legacy heating equipment with high efficiency heating equipment that low income customers may not otherwise be able to afford.

37. Currently, National Fuel is working to finalize a contract with NYSERDA to have that agency perform furnace replacements for the Company, just like they do with respect to weatherization work. NYSERDA has several local HVAC contractors already in the program to perform furnace replacement work. National Fuel believes that a \$1.95 million, one-time cash infusion to LIURP, to fund both the weatherization and furnace replacement elements would produce appreciable benefits to our low income customers and to our service area, generally. Accordingly, the Company proposes \$1.95 million in funding for the Low Income Enhancement Program. National Fuel anticipates that the physical work attendant to this request would be completed as soon as practicable, and before the conclusion of the 2020 program year with which the Commission has already approved funding for.

38. National Fuel believes that while its current LIURP program is very helpful in assisting its low income customers in reducing their natural gas consumption, expansion is desirable and in the ratepayer and public interest. If the Commission grants the low income customer relief requested herein, it would provide funding for the Company's various proposed programs to provide environmental and energy efficiency benefits, which are consistent with the State Energy Plan and New York's policies for greenhouse gas reduction, while preserving the importance of natural gas as an environmentally beneficial and highly cost effective fuel for our low income customers.

PROPOSED FUNDING OF PROGRAMS

39. As discussed above, there already exists a certain funding source that can be redirected to the Enhanced Safety Pilot Program and Low Income Enhancement Program which will eliminate the need for the imposition of a separate surcharge for these programs, thus affording rate stability for customers. The proposed source of funding is the unspent funds

associated with the Energy Efficiency CIP surcharge in the amount of approximately \$6.948 million. When those funds are exhausted, the Pilot Program would cease, apart from the current Energy Efficiency Tracker Surcharge and System Modernization Tracker mechanism currently in place. Moreover, using the unspent CIPS funds for these purposes is warranted given that current natural gas prices are near historic lows; thus, this is an opportune time to undertake these important efforts and ensure that the important state goals aligned with safety, energy efficiency, low income affordability and greenhouse gas reductions are met.

CONCLUSION

40. WHEREFORE, for the reasons expressed above, the Company respectfully petitions the Commission to grant the relief sought in this Petition on an expedited basis, as well as such other and further relief as may be required. The programs described above will provide tangible benefits to the public health and safety as well as promoting energy efficiency and reducing greenhouse gas emissions. For these reasons, the Commission is respectfully requested to approve this petition on an expedited basis and to authorize the use of the unspent CIP monies to fund these programs.

Dated: August 27, 2018
Albany, New York

Respectfully submitted,

/s/ Joseph N. Del Vecchio, Esq.

/s/ Bruce V. Miller, Esq.

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VERIFICATION

EXHIBIT A
Proposed
Damage Prevention
Inspector Pilot



Damage Prevention Vehicle (DPV) Pilot Program Truncated Proposal for **National Fuel & Gas**

August 6, 2018

The Rationale of a DPV Program

- ▶ One-Call Locating is a foundational service in Damage Prevention. If the utility owner works in conjoint with 811 Dig Safely NY and properly locates and marks all of their underground utilities prior to excavation, they have taken the first step to ensure no damages to their utilities.
- ▶ The second step is Damage Prevention Vehicles. This program involves engaging, educating, and monitoring the work of primary and 3rd party contractors/excavators/home owners as they do their work. Yes, you start with locating and marking utilities but this alone doesn't ensure an excavator is and remains in compliance with NYS Code Rule 753. It doesn't ensure that the excavator understands or follows the markings, hand exposes utilities inside the tolerance zone as appropriate. For long excavation projects, it doesn't ensure that the excavator maintains the marks. Hence, Damage Prevention Vehicles is another level of vigilance as it relates to damage prevention.

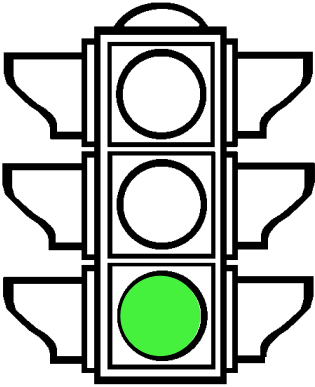
Key Elements of the DPV Program

- ▶ **Dedicated Resources:** Many clients attempt to employ a version of this program using internal resources only to find that using leveraged or shared resources is not as impactful as using dedicated, independent resources such as those we provide.
- ▶ **Autonomy/Independence:** Again, using client resources which are often unionized is not as effective as autonomous/independent resources where there is no inherent conflict of interest and/or bias.
- ▶ **Scaled/Targeted Deployment of Resources:** The design - number and placement of inspectors - of the DPV program is based on geographical ticket volumes, known problem excavators, historical damages/damage ratios, annual PSC goals, etc. The number and allocation of inspectors is tailored to the program to drive impact and results.

DPV Business Case

Current OTM DPV Program Performance through July 2018

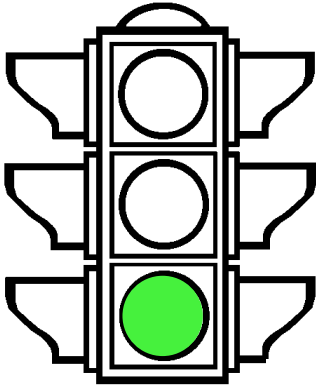
DPV Program A



Damage Ratio: 1.29 vs. 1.71

~78% Contact Rate
Ticket Count ~ 44,000
14 DPV Inspectors

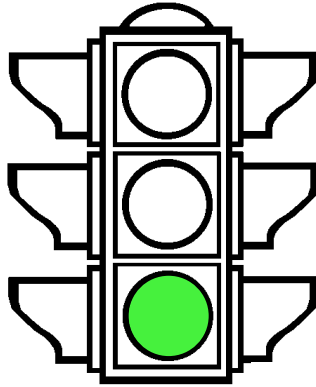
DPV Program B



Damage Ratio: 1.81 vs. 2.25 3rd Party Damage Ratio 0.31 vs. 1.92

~85% Contact Rate
Ticket Count ~ 20,000
5 DPV inspectors

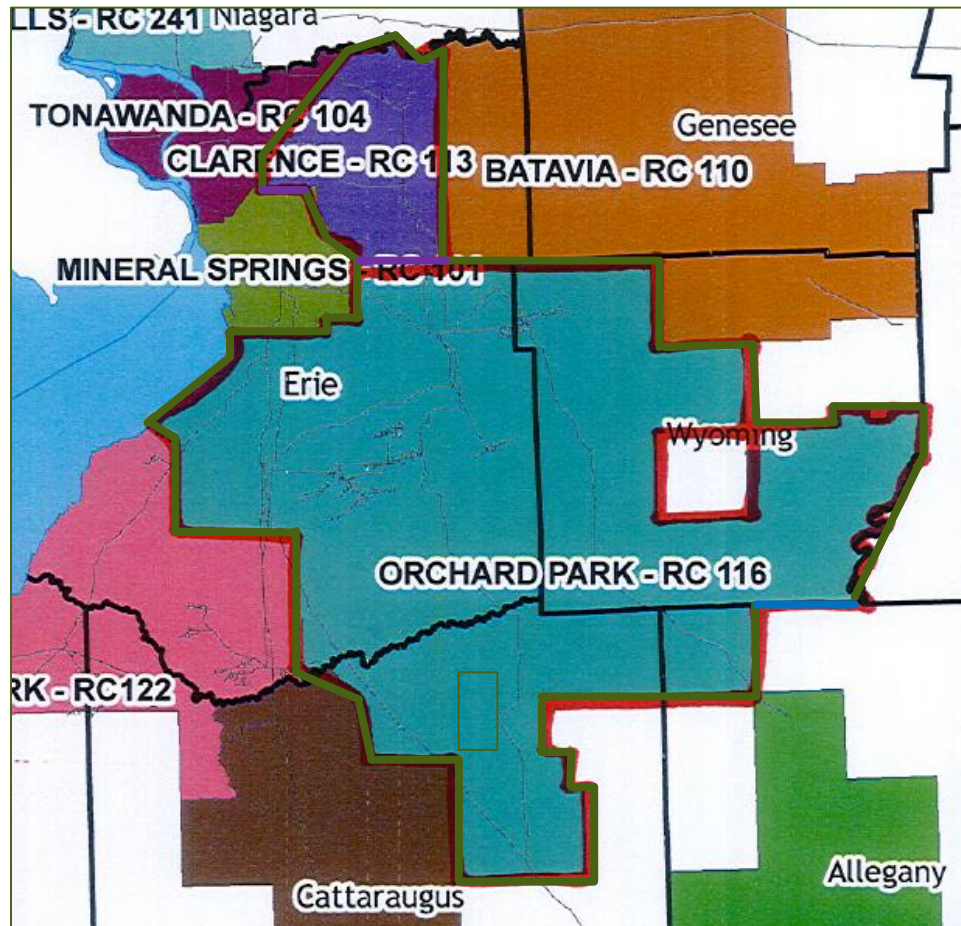
DPV Program C



~70% Contact Rate
Ticket Count ~ 13,000
4 DPV Inspectors

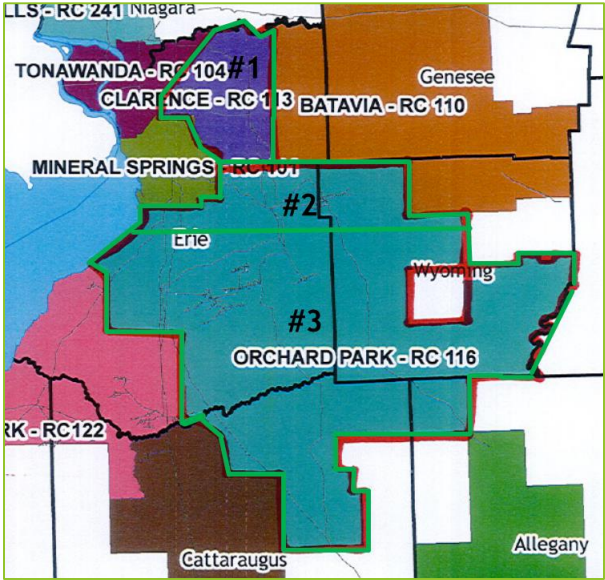
Note: Damage Prevention Vehicle (DPV) programs are operated in concert with the Utility Company's One-Call Locating Programs as part of a holistic Damage Prevention Program.

NFG DPV Pilot Program - Scope



- ▶ **Assets:** NFG underground gas utilities
- ▶ **Territory:** **Clarence - RC 113**
Orchard Park - RC 116
(as shown on map)
- ▶ **Start Date:** January 1, 2019
- ▶ **Term:** 1 year with option to extend for 1 year*
- ▶ **End Date:** December 2020*

Initial Work Areas



Area #1: Clarence - RC
~14,500 tickets
4 - 5 Inspectors

- ▶ Amherst
- ▶ Williamsville
- ▶ Alden
- ▶ Buffalo
- ▶ Clarence
- ▶ Cheektowaga
- ▶ Depew
- ▶ Williamsville
- ▶ Elma
- ▶ Lockport
- ▶ Lancaster
- ▶ Lancaster
- ▶ Depew
- ▶ Lancaster
- ▶ Marilla
- ▶ Newstead
- ▶ Pendleton
- ▶ Royalton

Area #2: Orchard Park - Sum
~9,000 tickets
3 - 4 Inspectors

- ▶ Alden
- ▶ Aurora
- ▶ Bennington
- ▶ East Aurora
- ▶ Elma
- ▶ Hamburg
- ▶ Lackawanna
- ▶ Lancaster
- ▶ Marilla
- ▶ Orangeville
- ▶ Orchard Park
- ▶ Sheldon
- ▶ Wales

Area #3: Orchard Park - Catt
~5,500 tickets
2 - 3 Inspectors

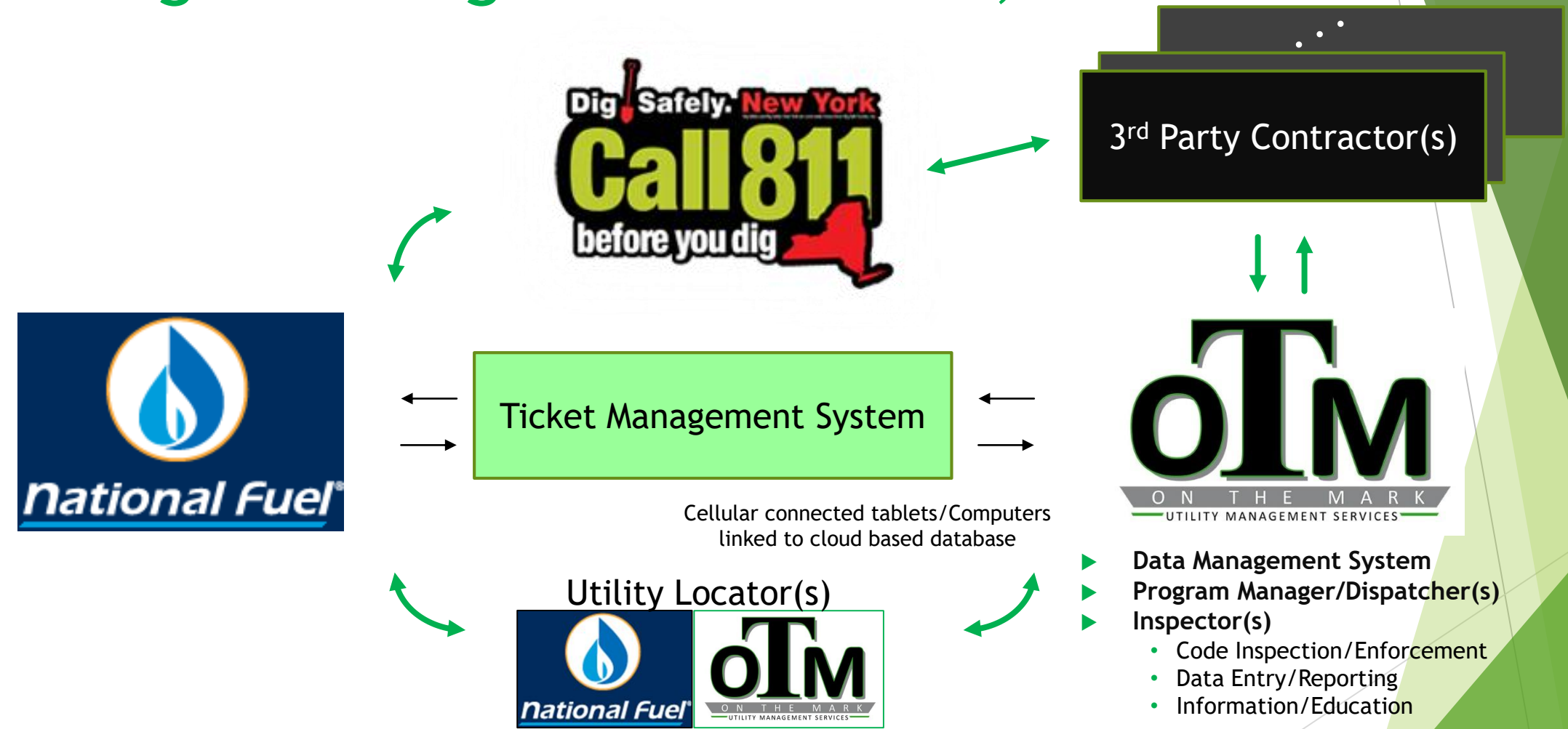
- ▶ Arcade
- ▶ Ashford
- ▶ Attica
- ▶ Boston
- ▶ Castile
- ▶ Centerville
- ▶ Cheektowaga
- ▶ Colden
- ▶ Collins
- ▶ Concord
- ▶ Eagle
- ▶ East Otto
- ▶ Eden
- ▶ Ellicottville
- ▶ Evans
- ▶ Farmersville
- ▶ Franklinville
- ▶ Freedom
- ▶ Gainesville
- ▶ Genesee Falls
- ▶ Holland
- ▶ Hume
- ▶ Java
- ▶ Machias
- ▶ North Collins
- ▶ Perry
- ▶ Pike
- ▶ Sardinia
- ▶ Springville
- ▶ Warsaw
- ▶ West Seneca
- ▶ Wethersfield
- ▶ Yorkshire

- Note: 1. General areas determined by historical ticket volume of cities/towns/villages, geographical area to be physically covered, and historical damage locations/types
2. Listing of cities, towns, & villages above is not exhaustive, only indicative

Program Design: How It Works

- ▶ 811 tickets are located by the client and/or the client's locating subcontract company
- ▶ After tickets are located, they are dispatched to OTM
- ▶ OTM reviews/analyzes the located ticket in terms of priorities set by the client (e.g., work being done within 4 ft. of gas utilities, excavator that has been known to have damages, etc.) and geographic location
- ▶ Tickets are dispatched to DPV inspectors
- ▶ DPV inspectors visit work sites and ensure excavators are in compliance of Code Rule 753. This might mean one visit and it might mean on-going visits if the work is being done over a period of time
- ▶ Data incl. photos on the excavation work is captured and fed back into a ticket management system for reporting and further analysis

Program Design: How It Works, cont'd



Value and success depends on continuous interaction/communications

NFG Pilot Program Goals & Strategy

Goals

- ▶ Engage, educate, and positively influence 3rd party contractors re: NYS Code Rule 753 relating to NFG's underground gas utilities
- ▶ Achieve 70 % or higher contractor contact rate (= inspector on site when excavator on site or inspector talking with excavator)
- ▶ Achieve NFG's targeted 2019 damage ratios of \leq TBD & TBD for Clarence - SC and Orchard Park - SC, respectively



Strategy

- ▶ Start with 10 DPV inspectors (using branded OTM vehicles) within specified geographical areas: Clarence - SC (4-5), Orchard Park - Sum (3-4), Orchard Park - Catt (2-3)
- ▶ Analyze and select high priority job sites for inspectors to visit/inspect using ticket data management system & computers (or tablets)
- ▶ In addition to the 'planned' visits, have inspector's respond to Emergency calls, Hits, No calls, and Tip Line calls

***NOTICE OF
PROPOSED
RULEMAKING***

For Department of State use only.

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.

1. Proposed action:

The Commission is considering a petition and tariff filing made by National Fuel Gas Distribution Corporation to implement a safety pilot program and enhancements to its low income usage reduction and furnace repair and replacement programs.

2. Statutory authority under which the rule is proposed:

Public Service Law §66.

3. Subject of the rule:

Approve relief requested in petition and change to Section 0 Leaf 120 of Distribution's Tariff No. 9 to amend sunset date.

4. Purpose of the rule:

Determine if Distribution's petition and tariff filing to amend sunset date of system modernization tracker 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.

NOTICE OF PROPOSED RULE MAKING (Rate Making) (1/18)**PAGE 2 OF 3****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 _____

Agency Name Central Operations, Public Service Commission

Office address 3 Empire State Plaza, Albany, NY 12223-1350

Telephone (518) 474-6530 *E-mail:* _____

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

Agency contact Honorable Kathleen Burgess, Secretary

Agency name New York State Public Service Commission

Office address 3 Empire State Plaza

Albany, NY 12223-1350

Telephone (518) 474-6530 *E-mail:* secretary@dps.ny.gov

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.

NOTICE OF PROPOSED RULE MAKING (Rate Making) (1/18)

PAGE 3 OF 3

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.

***SUBSTANCE
OF PROPOSED
RULE***

[Type here]

[Type here]

Attachment ____

Page 4

Substance of proposed rule

On August 27, 2018 National Fuel Gas Distribution Corporation ("Distribution") filed with the New York State Public Service Commission a Petition for an Enhanced Safety Pilot Program and Energy Efficiency Initiatives and proposed Revision 3 to Section 0, Leaf 120 of Tariff No. 9 that would extend the sunset date of Distribution's System Modernization Tracker. The Petition contains Distribution's proposal to implement a new safety pilot program along with enhanced energy efficiency initiatives in alignment with important state goals and requests authorization to:

- (i) implement a new safety pilot program designed to fund new and expanded natural gas safety improvement programs and activities in the areas of damage prevention caused by the excavation activities of third parties, leak management to continue to reduce outstanding leak backlogs, equipping and training first responders in connection with natural gas emergencies, and extend the sunset date of Distribution's System Modernization Tracker to continue the accelerated replacement of leak prone pipe;
- (ii) implement several enhancements to Distribution's existing Low Income Usage Reduction Program and furnace repair and replacement program, which are current components of Distribution's Conservation Incentive Program, to achieve the State's dual goals of enhanced energy efficiency and low income customer protection;
- (iii) allow Distribution to fund such programs by utilizing the unspent balance of its Conservation Incentive Program relating to the 2012 to 2015 program years; and
- (iv) amend Tariff Section 0, Leaf 120 of Distribution's existing Tariff No. 9 to extend the sunset date of the System Modernization Tracker.

If the tariff change is approved as filed, the sunset date of Distribution's System Modernization Tracker will be extended to March 31, 2022.

***METHOD OF
SERVICE***

Method of Service

Name:	Joseph N. Del Vecchio
Company/Organization:	National Fuel Gas Distribution Corporation
Mailing Address:	6363 Main St., Williamsville, NY 14221
Company/Organization you represent, if different from above:	
E-Mail Address:	delveccchioj@natfuel.com
Case/Matter Number:	07-M-0548; 15-M-0252; 16-G-0257

Request Type

- ☒ New Petition/Application - I am filing a new petition/application which requires action by the Commission.
- ☐ Service List request – I request to be on the service list for the matter/case.
- ☐ Other – Type of request _____

Service Information (Select one option below)

- ☒ Electronic Service and Waiver – Consent in Case/Matter Identified Above
As duly authorized by the Participant identified above that I represent, I knowingly waive on behalf of that Participant any right under PSL §23(1) to be served personally or by regular mail with Commission orders that affect that Participant and will receive all orders by electronic means in the above Case. If participating individually, I knowingly waive any PSL §23(1) right to service of orders personally or by regular mail and will receive all orders by electronic means in the above Case. This consent remains in effect until revoked.
- ☐ Electronic Service and Waiver – Global Consent in All Cases/Matters
As duly authorized by the Participant identified above that I represent, I knowingly waive on behalf of that Participant any right under PSL §23(1) to be served personally or by regular mail with Commission orders that affect that Participant and will receive all orders by electronic means in all Cases where it participates. If participating individually, I knowingly waive any PSL §23(1) right to service of orders personally or by regular mail, and will receive all orders by electronic means in all Cases where I participate. This consent remains in effect until revoked.
***Note:** Due to the design of our system, this consent attaches to the individual named here and not to the party that may be represented by that individual. Therefore, individuals who represent multiple parties should be aware that a global consent will affect all matters in which they appear on behalf of any party.*
- ☐ I do **not** consent to receive orders electronically

E-Mail Preference (Select one option below) – For Case specific request

E-Mail notifications include a link to filed and issued documents.

- ☐ Notify me of Commission Issued Documents in this case/matter.
- ☒ Notify me of Both Commission Issued Documents and Filings in this case/matter
- ☐ Do not send me any notifications of filed or issued documents

Submitted by: Joseph N. Del Vecchio	Date: 08-27-18
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