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National Fuel Gas Distribution Corporation
10 Lafayette Square
Buffalo, NY 14203

December 31, 1998

Hon. Debra Renner
Acting Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223
electronic filing via e-mail

Dear Acting Secretary Renner:

National Fuel Gas Distribution Corporation ("Distribution" or the "Company") submits the following revisions to its tariff, P.S.C. No. 8 - GAS:

First Revised Leaf No. 206
First Revised Leaf No. 214
First Revised Leaf No. 224

The proposed amendments are issued as of today for an effective date of March 29, 1999.

Description of Amendments

Distribution proposes to amend Service Classification Nos. 13D and 13M by extending the current so-called "mandatory assignment" rule the lesser of an additional six months or upon the effective date of restructured services filed by Distribution in response to the Commission's Policy Statement,¹ or relevant subsequent orders, issued in Case 97-G-1380. Mandatory assignment is the requirement that customers converting from sales to transportation service take an allocation of upstream pipeline capacity previously acquired by the Company in furtherance of the Company's obligation to serve.

Service Classification Nos. 13M and 13D are Distribution's standard firm transportation services, available to all customers either individually or through aggregation. Currently, the language in both classifications limits mandatory assignment to the three-year period ending

¹ Cases 93-G-0932 and 97-G-1380, Policy Statement Concerning The Future of the Natural Gas Industry in New York State and Order Terminating Capacity Assignment (issued and effective November 3, 1998)[cited respectively as Policy Statement and Order Terminating Capacity Assignment].

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March 28, 1999. The three-year period was set by the Commission in Case 93-G-0932.2

Reason for Amendments

The proposed amendments are submitted by the Company simultaneously with a document being filed in response to the Commission's Order Terminating Capacity Assignment. The document, entitled *National Fuel Gas Distribution Corporation's Plan for Retaining and Managing Upstream Capacity in Response to the Commission's Order of November 3, 1998* (cited as "*Capacity Filing*"), responds to the Commission's instructions that "where a utility believes circumstances continue to warrant capacity assignment, it will be required to make a showing." Order Terminating Capacity Assignment at 11. Distribution's *Capacity Filing* does not argue solely for extension of the current mandatory assignment requirement. Rather it describes a restructured operating regimen that calls for a combination of mandatory assignment, rolled in pipeline rates and other requirements considered necessary by Distribution to maintain traditional levels of reliability. Importantly, the mandatory assignment feature of Distribution's *Capacity Filing* contemplates a smaller allocation than is currently required.

As explained by Distribution, the *Capacity Filing* is intended to preserve reliability and promote the Commission's vision for competition set forth in the Policy Statement, while recognizing operational and legal constraints that have yet to be fully addressed. By approving the enclosed tariff amendments, the Commission will prevent the potential disruption of an interim, temporary operational regime pending implementation of the plan described in the *Capacity Filing*. Marketers currently doing business on Distribution's system have developed their own operating practices based on the mandatory capacity rule. If the Company terminates the mandatory capacity rule, and then later institutes the capacity plan described in the *Capacity Filing*, marketers will be forced to modify their systems *twice* -- first in response to the April 1, 1999 changes, and second to comply with the changes described in the *Capacity Filing*, or such other changes implemented under the Policy Statement. There is little to be gained by allowing such a disruption prior to the development of a comprehensive restructuring program.³ Furthermore, the Company is requesting not an indefinite extension period, but the lesser of six months or until a comprehensive program is adopted. This should allow the parties sufficient time to develop the Company's plan within the framework of the Policy Statement and the law.

Other Information Required by 16 NYCRR Part 270

² Case 93-G-0932, *Restructuring of the Emerging Competitive Natural Gas Market*, Order Resolving Petitions for Rehearing (issued September 13, 1996), p. 9.

³ In addition, the Company has serious concerns about assuring, in the absence of mandatory assignment, its long-standing requirement that marketers serving core customers secure firm capacity from the production area to the city gate. This requirement, which preserves reliability, is easily verified when marketers are using the Company's capacity. The Company loses its oversight capability, however, when marketers bring their own capacity to the city gate. Although this problem is resolved in the Company's *Capacity Filing*, it has not been addressed in the context of the April 1, 1999 requirement.

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The proposed tariff amendments are revenue-neutral. Customer bills will not be affected. 16 NYCRR sec. 270.11 (b) (1) - (5).

Newspaper Publication

Distribution requests waiver of the requirement that notice of proposed tariff revisions be published in major newspapers of general circulation. Since the proposed amendments merely extend currently-effective tariff language, there is no change in service that would justify the expense of publication. Thus the public interest would not be served by publication.

Conclusion

For all of the foregoing reasons, Distribution respectfully requests that the proposed tariff amendments be approved for an effective date of March 29, 1999.

Respectfully Submitted,

Michael W. Reville

Attachments