



national fuel

January 15, 2013

Hon. Jaclyn A. Brillling
Secretary
Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Proposed Tariff Amendments – National Fuel Gas Distribution Corporation

Dear Secretary Brillling:

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

Leaf No. 46	Revision 4
Leaf No. 47	Revision 1
Leaf No. 48	Revision 2
Leaf No. 114	Revision 4
Leaf No. 115.2	Revision 0
Leaf No. 115.3	Revision 0
Leaf No. 115.4	Revision 0

For the reasons that follow, Distribution respectfully requests that the above tariff revisions be approved, together with changes described below, for an effective date of April 24, 2013.

Introduction

This filing is submitted to the New York Public Service Commission (“NYPS” or “Commission”) to modernize the process of negotiating a Deferred Payment Agreement (“DPA”) within the law and consumer expectations. The Company’s proposal is designed to benefit residential customers by adding a new means of procuring a DPA as an addition to other established means. The pilot program would allow customers to call the Company, negotiate the terms of a DPA over the phone with a representative and have an electronic document prepared for the customer’s pre-signing review (“Telephonic-Web process”). The customer would thereafter execute the DPA using widely-recognized electronic signature protocols authorized under New York’s Electronic Signature and Records Act (“ESRA”). The implementation of a Telephonic-Web process will benefit customers by providing a more convenient, expeditious,

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and additional means of entering into a DPA. The Company's proposal, if approved, would also further the policy of the state that the continued provision of utility service to residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest (Public Service Law "PSL" § 30).

In this filing, the Company is requesting the Commission to approve the DPA as a different form of the previously approved and currently-effective hard-copy DPA. The electronic DPA for which approval is sought herein is identical to the hard-copy, standard-form DPA in every regard except (a) the electronic DPA would be provided to customers in an electronic format; and (b) in the electronic DPA there are minor, immaterial but conforming changes to the text of the hard-copy DPA for its use in an electronic format. The Company believes that the Commission is not required to grant approval with regard to the legal sufficiency of an electronic signature to produce a binding agreement. The Company nonetheless submits its entire proposal for an electronic DPA pilot for the Commission's consideration.

Background

Section 37 of the PSL provides for DPAs between customers and utilities to allow for repayment of arrears over a period of time. These agreements are to be made available to customers, with limited exceptions, in situations both where utility service is actively being provided and where service has been disconnected or terminated. DPAs allow a customer to avoid service shut off or to restore service by providing reasonable repayment terms for billed arrears.

The law contemplates that a customer is provided with a copy of the DPA containing conspicuous notice that the customer may request the assistance of the Commission in reaching an Agreement and that the Agreement be signed in duplicate with each party receiving a signed copy (PSL § 37[2]). The Commission has adopted regulations implementing Section 37 of the PSL at 16 N.Y.C.R.R. Part 11.10. In addition, utilities are required to include the form DPA in their tariffs.

Program Need

Since the adoption of Home Energy Fair Practices Act ("HEFPA") in 1981, there have been many technological advances that have changed the way that individuals conduct their personal business. Up to the early 1980's, most personal business was conducted face-to-face or through the mail. Utility agreements were often negotiated with customers in utility business offices, where customers affixed their signatures in ink, and in the presence of utility personnel.

Much of commerce today is driven more by computers and other electronic devices. Customers have different expectations and needs, and have a desire to conduct their business affairs in a simpler, more convenient and expeditious manner. Customers of all income ranges

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conduct business affairs over the phone with automated voice response units, as well as (with increasing frequency) computers and other technologies. In addition to private business transactions, many government services can now be managed by residents using these forms of technology instead of face-to-face or hardcopy transactions. These technologies today have an established record of providing valuable and often necessary consumer benefits. This is especially true when a customer's utility service has been shut off and he or she seeks to have it restored, or when there are issues involving disability or transportation that make it difficult or impossible for a customer to visit a utility office.

Changes in technology have benefited the consumer and made transacting business more convenient. There is a distinct benefit to allowing DPAs to be executed in an expedited fashion. Currently, when a customer's account has collection activity, the utilities will attempt to negotiate a DPA with the customer. An offer may be reached on the telephone and then the utility would place a hold on collection activity to allow for a mailing and return of the executed DPA. There are numerous instances when these customers do not execute and return the mailed offer and their service is disconnected after the collection hold expires. In other instances, customers will promptly execute the DPA and mail it back to the utility but there will be an intervening bill for service that occurs prior to the utility receiving the signed DPA. This creates additional confusion and inconvenience for the customer, who has a new bill statement that does not show the DPA. Electronic transmission will speed and streamline the process, to the customer's benefit.

Providing Applicants or Customers with the Option of Electronically Signing DPAs is in the Public Interest and Will Help to Maintain Continuous Utility Service

PSL § 30 states that "it is the policy of this state that the continued provision of gas, electric and steam service to residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest." In furtherance of this stated policy, it is reasonable to provide customers with an additional option and permit them to enter into legally valid DPAs via electronic signature especially where, as here, there is no other change in service.

Providing the customer the opportunity to negotiate a DPA over the telephone, and view and execute it electronically will result in superior customer service, expedite the restoration of utility service and minimize service disconnections. As noted above, with advances in technology, customers have changed the way in which they handle their personal affairs. To deny those without service the convenience of entering into a DPA via a telephone conversation and electronic execution will cause unnecessary delays and hardship on the customer. It also increases transactional costs for the customer and the utility.

Some customers do not have convenient access to a utility business office. They may live in remote areas, have a disability or transportation difficulties, or may have work

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commitments that would make face-to-face contact with their utility a hardship. If the customer cannot visit the utility to sign a DPA, he or she may have to wait for the "offer" to be mailed and delivered and wait even further until it is sent back to the utility. This process could take several days to a week. Where utility service is off, service reconnections will be expedited by allowing Telephonic-Web DPAs.

Program Design

Distribution's pilot program for Telephonic-Web DPAs is designed to improve customer service by offering the customer the option of negotiating a DPA over the phone and executing it by using the Company's web site. The customer will be able to fully negotiate a DPA over the telephone in a discussions with a customer service representative ("CSR"), while being advised that he or she may request the assistance of the Commission in reaching an agreement. The terms of the DPA will be established and the CSR will create an electronic document for the customer's pre-signing review. Using the web, the customer would access the electronic record, review it and execute the DPA using widely-recognized electronic signature protocols acceptable under New York law.

The pilot program will be offered whether utility service is on or off. During a phone call, the customer provides income and expense information to the CSR who enters data provided verbally by the customer and establishes terms of negotiated agreement. The CSR recites the payment terms back to the customer. The customer then obtains a copy of the DPA prior to electronically signing it. The electronic document includes conspicuous, bold notice that the customer may request the assistance of the Commission in negotiating an agreement. The CSR instructs customer to obtain the agreement either through an e-mail address provided by customer or on record or by visiting the National Fuel website and accessing the payment agreement web-page at NFGAgree.com.

To ensure its veracity, acceptance of the DPA follows an acknowledgment process. The customer accesses his or her account on National Fuel's website and enters personally identifiable information for verification. The DPA is reviewed and can be accepted or rejected by the customer. When the customer elects to accept the agreement, the system captures and retains information (date, time, etc.) that DPA is electronically signed. The customer is informed that the DPA has been signed and that a hard copy of the signed DPA will be mailed to the customer. In addition, the customer is offered post-confirmation options which include: No confirmation requested; Send confirmation to email provided or on file; Print now from screen.

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Electronic Signatures and Records Act

Under the New York Electronic Signatures and Records Act (“ESRA”) the customer’s electronic signature is, by operation of law, equal in validity to a written signature. The ESRA is described as promoting “the acceptance of electronic signatures [e-signatures] and records [e-records] by both the public and private sectors in New York State, by providing that electronic signatures bearing certain attributes are the legal equivalent of signatures affixed by hand.”¹ Electronic signatures have been accepted by a growing number of state agencies since the ESRA was enacted.²

All agreements qualify for voluntary e-signatures unless they are specifically excluded by Section 307 of the ESRA or regulations. For example, wills or certain negotiable instruments are identified by the law as ineligible for e-signatures. Deferred Payment Agreements (“DPAs”) are not listed among the ineligible documents under Section 307. So, under the ESRA, DPAs can lawfully be signed with an e-signature, subject to certain protections.

ESRA does not require private parties or governmental entities to use or accept e-signatures or e-records, unless some other law provides otherwise. In other words, the use and acceptance of e-signatures or e-records is completely voluntary in most cases. The Company is proposing to offer e-signed DPAs as an additional service, and not as a mandatory substitute for written signatures. Under these circumstances in particular, e-signatures will be accepted under the ESRA as evidence of binding intent equal in force and effect to a written signature.

The validity of e-signatures have been upheld by the Courts in New York. In the case Wen Zong Yu v. Charles Schwab & Co., Inc., 34 Misc. 3d 32, 34, 937 N.Y.S.2d 527 (App. Term 2011), the appellate Court upheld the decision of the trial court that plaintiff was subject to the arbitration clause in a brokerage agreement where his electronic signature was placed on the agreement at his direction in lieu of his handwritten signature. The Court noted that “[t]he Electronic Signatures and Records Act provides that ‘an electronic signature may be used by any person in lieu of a signature affixed by hand’ and that such a signature ‘shall have the same validity and effect as the use of a signature affixed by hand’ (State Technology Law § 304 [2]; *e.g. Naldi v Grunberg*, 80 AD3d 1, 10-11 [2010])” (*id.*)

¹ New York State OTDA, Informational Letter issued by Deputy Commissioner Russell Sykes, July 29, 2010 (“OTDA Letter”).

² *See*, New York State Office for Technology, *Report to the Governor and Legislature on New York State’s Electronic Signatures and Records Act*, (2004). New York State Office for Technology; Chief Technology Officer, *A Report on the Progress Made by State Agencies to Deliver Citizen Services over the Internet* (2010).

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Protection of Personally-Identifiable Information ("PII")

The Company has discussed a protocol for procuring electronic signature and acceptance of DPAs with the Department of Public Service Staff and has incorporated its recommendations. The electronic protocol that will be utilized by the Company conforms to current standards and expectations with regard to the protection of PII. Those standards include the following:

National Fuel uses industry standard SSL encryption utilizing an RSA 1024-bit key for its website. In addition, a security certificate has been issued by VeriSign and can be displayed by the customer by clicking on the lock icon in their browser. NFG identifies and validates the customer by having them enter their 9-digit account number, premise zip code and the last four digits of their social security number. After reviewing the DPA, the customer must type the words "I AGREE" and click the "Accept Agreement" button on the web page in order to accept and electronically sign the DPA.

Program Deliverables

The pilot program is developed to add an additional option for customers and applicants who wish to enter into a DPA with the Company. The existing means of negotiating DPAs will remain in place. The benefits of the proposed Telephonic-Web DPA include greater flexibility for those that are interested in a payment agreement as they will not need to travel to a utility business office saving them time and money.

Customers and applicants will have the option to negotiate a DPA over the telephone based on their individual financial circumstances. The call scripting and web screens that will be utilized are attached to this filing at Attachment A. The Company phone representative advises them that the Commission is available to assist them in reaching an agreement, and takes the customer through the DPA process to the point of accepting the DPA. The customer is then referred to NFGAgree.com to review the written terms of the DPA and the income and expense information provided, or will receive an email telling them the DPA is available for review on the web. They are further advised to call Distribution after DPA terms have been met if service is currently off. Customers and applicants can review the DPA terms, income and expense information, and then decide to accept or decline the DPA or do nothing.

For security and to authenticate their identity, customers enter their account number, the last four digits of their social security number, and their premise zip code to access the web acceptance page. A DPA will only be available for review on the website by customers that have spoken to a telephone representative where the representative completed the income and expense process and negotiated repayment terms with them. The telephone call is recorded. This process will prevent risk of intrusion, repudiation, or fraud.

The majority of infrastructure has already been created to implement the Telephonic-Web DPA process. Distribution has completed the web and mainframe requirements and design

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specifications, program coding and testing and is prepared for implementation. To date, approximately 660 hours have been devoted in the development of the program. It will cost approximately \$800 to make one-time changes with the printing vendor to have the accepted DPA mailed to the to the customer.

Distribution proposes performing an evaluation plan to see how Telephonic-Web DPAs are working for customers and applicants. It will provide a comparison, by year, of Telephonic-Web DPAs and Walk-In DPAs including, by type, the dollar amount of the DPA, the customer's current balance, the number of DPAs created, the number of DPAs still active, the number of DPAs paid, and the number of DPAs that were canceled.

Newspaper Publication

The Company will publish notice of the proposed tariff revisions in accordance with Public Service Law §66(12) and applicable regulations.

Conclusion

If adopted as proposed, the pilot program would help to provide customers with the opportunity to negotiate DPAs over the telephone and print or view them prior to execution. The Telephonic-Web process option under this pilot program, which is additional and does not replace any existing process, will result in superior customer service, expedite the restoration of utility service and minimize service disconnections. Made possible by advances in technology since the adoptions of HEFPA in 1981, the process provides the convenience of entering into a DPA via a telephone conversation and electronic execution.

For all these reasons, Distribution respectfully requests that the Commission approve the proposed pilot program, extending the availability of DPAs to customers and applicants through a Telephone-Web process and approve the enclosed tariff amendments as filed.

Company Contacts

For questions relating to this filing, please contact the undersigned at (716) 857-7325 or Michael Reville at (716) 857-7313.

Respectfully submitted,



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