

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy
Efficiency Portfolio Standard

REPLY BRIEF
SUBMITTED BY
NATIONAL FUEL GAS DISTRIBUTION CORPORATION

On April 10, 2008, National Fuel Gas Distribution Corporation (“Distribution” or the “Company”) submitted its Initial Brief (IB) in the above-referenced proceeding. As authorized by a ruling issued on March 20, 2008, by Administrative Law Judges Eleanor Stein and Rudy Stegemoeller, Distribution submits the instant Reply Brief in response to arguments or statements contained in initial briefs filed by two other parties in the proceeding.

1. Distribution’s Existing Program Extends Beyond One Year

In its IB, Distribution identified an error in the March 2008 DPS Staff Report on Recommendations for the EPS Proceeding (“Report”). On page 18 of the Report, Staff described the natural gas efficiency program currently in effect in Distribution’s program as having been approved only “for one year.” See Distribution IB at pp. 1-5. Perhaps unintentionally, Staff’s initial brief repeats the same mistake when it recites selected passages from the Report. In its description of a model for cost allocation and recovery, Staff’s IB proposes that “[i]n the case of NFG, whose program was only approved for one year, the EEPS allocation should take the place of the existing surcharge when it expires.” Staff IB at 41. Staff incorrectly describes Distribution’s conservation program as having been approved only for one year. In fact, the Commission’s order approving Distribution program contemplated that it would continue, following a collaboration to

investigate the need for changes, through winter 2008-09 at a minimum. Case 07-G-0141, Order Adopting Conservation Program (issued September 7, 2007) at 12. Toward that end, Distribution's program has been designed, promoted and communicated to continue into winter 2008-09; it is not a one-year program. Staff would be correct, however, if it is merely suggesting that the program cost allocation and rate design mechanisms for recovery Distribution's program costs could be modified for its second year to conform to "the EEPS allocation" should it be developed. See, Case 07-G-0141, Order Establishing Rates for Gas Service (issued December 21, 2007) at 48. Pursuant to the Commission's directive, Distribution will soon convene a collaborative for the purpose of refining its conservation program for the second year. As explained by Distribution in its IB, however, given that the Company's program currently meets most if not all of Staff's specific requirements for bridging programs and possibly even the longer run, we anticipate that it will continue in substantially similar form through winter 2008-09.

2. NRDC's Proposal for Procedure is Sound and Should Be Adopted

Few if any parties question the wisdom of implementing specific customer energy efficiency initiatives in New York State in an expedited manner. There are, however, numerous and often-conflicting procedural issues between the parties as to the best way to implement programs. For the most part, parties agree that some level of utility involvement in energy efficiency programs will be needed to maximize the benefits of energy efficiency initiatives designed to meet the 15 by 2015 goal.

Given the goal to begin energy efficiency programs as soon as possible, the Natural Resources Defense Council et al. ("NRDC") proposal that utilities file tariff leafs

within 45 days to implement energy efficiency programs would likely lead to the quickest and most effective implementation of programs. NRDC IB at 5. A 45 day period provides a reasonable amount of time to seek consensus with the parties regarding program details. If no such consensus is reached, utilities would file tariff amendments to implement programs and the Commission, after comment from interested parties, would then render a decision on the utility tariffs. Utilities with existing conservation programs that substantially conform to the Straw Proposal and Staff's bridging model would submit an information-only filing and a proposed schedule for future collaboration on longer-term changes. This procedure will allow Staff and interested parties time to focus on program designs and tariff leaves for utilities that do not have energy efficiency programs currently in place.

Respectfully submitted,

NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Michael W. Reville
(716) 857-7313
6363 Main Street
Williamsville, New York 14221