



National Fuel

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***VIA Electronic Filing &
NEXT DAY UPS***

Secretary James J. McNulty
Pennsylvania Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

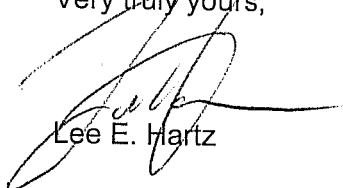
**Re: Compliance of Commonwealth of Pennsylvania with Section 410(a) of the
American Recovery and Reinvestment Act of 2009;
Pa. P.U.C. Docket No. I-2009-2099881; Additional Reply Comments of
National Fuel Gas Distribution Corporation**

Dear Secretary McNulty:

Pursuant to the Secretarial Letter issued by the Pennsylvania Public Utility Commission in the above-captioned proceeding, enclosed for filing are an original and 15 copies of the Additional Reply Comments of National Fuel Gas Distribution Corporation. This document is also being electronically filed.

If you should have any questions regarding this filing, please contact me anytime at (814) 871-8060. Many thanks for your assistance in this matter.

Very truly yours,



Lee E. Hartz

Enclosures

cc: Steven Bainbridge (sbainbridg@state.pa.us)

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Compliance of Commonwealth
of Pennsylvania with Section
410(a) of the American Recovery
and Reinvestment Act of 2009

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Docket No. I-2009-2099881

**ADDITIONAL REPLY COMMENTS OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION**

I. Introduction.

On May 6, 2009, the Commission entered an Order in this proceeding (the “Investigation Order”) commencing an investigation regarding Commission policies and actions that should be implemented to ensure compliance with the requirements of Section 410(a) of the American Recovery and Reinvestment Act of 2009 (the “Recovery Act”)¹ and any actions, orders, policy statements, or regulations that the Commission should adopt to ensure that utility company financial interests are aligned with support of customer conservation, including the issue of rate decoupling.

On July 6, 2009, various parties, including National Fuel Gas Distribution Corporation (“Distribution” or “the Company”) submitted Initial Comments. On August 5, 2009 numerous parties submitted Reply Comments. Recently, on November 19, 2009 a Technical Conference was held where the Commission heard presentations from parties regarding their views of what actions were necessary to align utility company financial interests with ratepayer conservation.

Distribution shares the opinion of many parties, including consumer advocates across the country, environmental interests, energy conservation advocates, utilities, energy service companies and regulators, that this issue is of critical importance to utility customers. The Company thanks the Commission for holding the technical conference and providing this opportunity for additional Reply Comments regarding the technical

¹ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 § 410(a), 123 Stat. 115 (2009).

conference presentations. Many of the issues raised at the technical conference were already addressed in Distribution's initial and reply comments and those arguments will not be repeated at length here.

All in all, Distribution is encouraged by the Commission's efforts thus far and believes that the Commission should continue to build on this process and take the appropriate steps to align the financial interests of Pennsylvania utility companies with the state's interest in energy conservation. The recently announced working group, which will further consider alternative ratemaking structures, is clearly a step in the right direction.

II. Current rate making methodology does not align the financial interest of utilities with customer conservation.

A review of the testimony provided by the various utility companies² illustrates that one theme was consistent: current rate practices do not align utility financial interests with ratepayer conservation. Quite the opposite is true, many of the utility companies commented that current rate practices actually create a financial disincentive to promote conservation. The testimony provided critical insight on how Pennsylvania's current practices stack up when it comes to promoting conservation. The message is clear, the companies who are directly impacted feel that promoting conservation is contrary to their best financial interests.

The statutory parties, specifically the Office of Consumer Advocate and the Office of Small Business Advocate, contended that, in their opinion, Pennsylvania's ratemaking policies are already aligned with the promotion of consumer conservation. These parties advocated for retention of the status quo. They rejected the very idea that the state's longstanding rate design practices might be the very sort of traditional,

² The following companies provided testimony at the November 19th technical conference: Distribution, The First Energy Companies, UGI Utilities, PECO Energy Company, Equitable Gas, and Columbia Gas of Pennsylvania.

declining-block volumetric rates that Congress believes discourage energy conservation. Furthermore, other parties pointed out additional factors that would indicate that Pennsylvania's current ratemaking policies do not align utility financial interests with conservation. Specifically, the U.S. Department of Energy ("DOE") discussed various innovative ratemaking methods employed by other states to help align interests. None of those methods are in place in Pennsylvania. Also, Standard & Poor's Rating Services provided a detailed presentation supporting the concern that in the absence of a revenue decoupling mechanism, utilities that undertake effective energy conservation measures will be financially harmed.

Taken as a whole, the testimony at the Technical Conference strongly indicates that Pennsylvania needs to take additional steps in order to properly align the financial interests of its utilities with the interests of customer conservation.

III. Program design should be flexible.

The other concept that seemed consistent in the parties' remarks was the need for flexibility in the implementation of program design. In its initial Reply Comments, Distribution discussed this concept at length and, as such, will not repeat those comments here. Suffice it to say, given the distinctions in service territories and unique factors of each of Pennsylvania's utilities, the Commission should remain flexible as it implements strategies to align utility financial interests with ratepayer conservation. Several parties discussed various ratemaking methods that would achieve this symbiosis. For instance, DOE expanded on several different models employed in various states. Likewise, various concepts such as decoupling, higher basic service charges and straight fixed variable plans were identified and discussed by separate utilities.

Clearly, flexibility is important as the Commission moves forward. Similarly, many parties stressed the need to retaining a voluntary nature to any plans that are

implemented. Also stressed was the ability, and existing authority, to implement mechanisms without the need for a base rate case.

IV. Utilities are critical to the conservation equation.

Distribution provided remarks regarding its experience with implementing rate decoupling and a hand-in-hand customer conservation program for its New York division. Distribution will not reiterate all of its testimony herein, but a few highlights are worthy of repetition.

First, in Distribution's experience, even though state agencies may provide a valuable outreach and education service, utility customers look first to the utility to provide advice and counsel on matters of energy efficiency. Specifically, Distribution described customer surveys that indicate how critical this link is. That evidence suggests that utilities are in the best position to provide assistance to customers who are looking to use less energy. For a utility to perform this function with any credibility, however, it is critical to remove the existing financial disincentives that would discourage a utility from providing such advice. If the disincentives continue to exist, it is unrealistic to expect utilities to become an active participant in conservation. Penalty mechanisms, like those that exist in Act 129, encourage only minimal participation. Clearly, it is better to completely align interests so that all parties can have a common interest and goal.

Distribution's remarks illustrated the positive conservation results that can be achieved when these disincentives are removed and the utility becomes an active participant in conservation promotion. In its New York Division, Distribution instituted a Conservation Incentive Plan as part of an overall rate decoupling mechanism. Once the rate decoupling mechanism was implemented in New York, the financial disincentive in promoting conservation was removed. As stated in Distribution's remarks, evidence collected since the institution of that Plan suggests that it is working to both reduce customer bills and decrease overall energy usage in New York.

V. Conclusion.

The presentations at the technical conference provided further evidence of several salient points: (1) there is no credible argument that Pennsylvania's current rate practices align utility financial interests with customer conservation; (2) there are various reasonable and time-tested rate decoupling methods that would effectively remove the utility disincentive to conserve; (3) utility companies are in a unique position to assist in promoting customer conservation; and, (4) real results can be achieved if the disincentives are removed.

Respectfully submitted,

NATIONAL FUEL GAS
DISTRIBUTION CORPORATION

Dated: December 21, 2009

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