

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, *et al.* :  
 :  
 v. :  
 :  
 National Fuel Gas Distribution Corporation :

R-00061493, *et al.*

DOCUMENT  
FOLDER

PROTECTIVE ORDER

**DOCKETED**  
SEP 7 2006

AND NOW, to wit, this 21<sup>st</sup> day of August, 2006, upon consideration of the motion of National Fuel Gas Distribution Corporation for a Protective Order filed on August 9, 2006 pursuant to Sections 5.362 and 5.423 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code §§5.362 & 5.423, requesting restrictions on the disclosure of competitive, proprietary and confidential information that it and other parties may file, present or otherwise disclose in this case and having received no objection thereto from any party in interest, IT IS HEREBY ORDERED THAT:

1. This Protective Order is granted with respect to all materials and information identified in Paragraph 2 below, which are filed with the Commission, produced in discovery, or otherwise presented as evidence in this proceeding. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The materials and information subject to this Protective Order include all correspondence, documents, data, information, studies, methodologies and other materials, which a party furnishes in this proceeding pursuant to the Commission Rules and Regulations, discovery procedures, or cross-examination or provides as a courtesy to other parties in this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated "PROPRIETARY INFORMATION." Parties have the right to challenge the confidential nature of Proprietary Information. If Proprietary Information is not challenged, that

information will be covered by this Protective Order. If a party challenges the designation of specific information as Proprietary, other parties will have a reasonable opportunity to respond to such a challenge. Pending the Administrative Law Judges' or the Commission's ruling on whether the material is Proprietary, all parties and the Commission will continue to treat the information as confidential.

3. Proprietary Information shall be made available to the Commission and its Staff for use in this and any related proceeding and for all internal Commission analyses, studies or investigations related to the same. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures for Proprietary Information inasmuch as the report folders are not subject to public disclosure. To the extent the Proprietary Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked and accompanied by a copy of this Order. Public inspection of the Proprietary Information shall be permitted only in accordance with this Protective Order.

4. Proprietary Information shall be made available to counsel for parties of record in this proceeding. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross-examination or argument in this case. To the extent required for participation in this proceeding, a party's counsel may afford access to Proprietary Information made available by another party ("the producing party") to the party's experts. A "party's experts" include a party's internal experts, who will provide testimony in this case, who are not involved in marketing directly to customers and who agree to use the Proprietary Information only for this proceeding. No other persons may have access to the Proprietary Information, except as authorized by Order of the Commission or the Administrative Law Judges. No person, who may be entitled to receive or who is afforded access to any Proprietary Information, shall use or disclose such information for the purpose of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

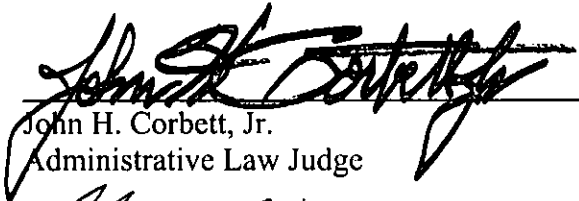
5. The producing parties shall designate data or documents as constituting or containing Proprietary Information by affixing an appropriate proprietary stamp or typewritten designation on all such data or documents. Where only part of the compilations or multi-page documents constitutes or contains Proprietary Information, the producing party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents, which constitute or contain proprietary information.

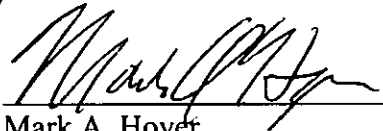
6. Any public reference to Proprietary Information by the Commission or by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

7. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, direct testimony, cross-examination, argument, and responses to discovery, and including reference thereto as mentioned in the foregoing Ordering Paragraphs, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to an Order of the Administrative Law Judges, the Commission or an appropriate appellate court.

8. The parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; and to seek additional measures of protection of Proprietary Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary, the party claiming that the information is proprietary retains the burden of demonstrating that the designation is necessary and appropriate.

9. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary Information, shall be immediately returned to the party furnishing such Proprietary Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information have been destroyed. This provision, however, shall not apply to the Commission or its Staff.

  
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John H. Corbett, Jr.  
Administrative Law Judge

  
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Mark A. Hoyer  
Administrative Law Judge

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