



**National Fuel**

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December 12, 2013

**VIA ELECTRONIC FILING**

Ms. Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: Investigation of Pennsylvania's  
Retail Natural Gas Supply Market  
Docket No. I-2013-2381742

Dear Secretary Chiavetta:

Enclosed please find National Fuel Gas Distribution Corporation's Comments regarding the Investigation of Pennsylvania's Retail Natural Gas Supply Market at Docket No. I-2013-2381742.

Very truly yours,

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MGK/blh

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Investigation of Pennsylvania's Retail  
Natural Gas Supply Market** :  
: **COMMENTS**  
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: **Docket Number: I-2013-2381742**  
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**COMMENTS OF  
NATIONAL FUEL GAS DISTRIBUTION CORPORATION**

**TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

**I. Introduction.**

By Order adopted at this docket on September 12, 2013 ("Order"), the Pennsylvania Public Utility Commission (the "Commission"), solicited responses from interested parties to eight questions related to Pennsylvania's retail gas market. Upon review of the comments received in response to the questions, the Order directs that the Office of Competitive Market Oversight is to provide recommendations to the Commission outlining specific courses of action to be taken by the Commission to improve the competitiveness of Pennsylvania's retail gas market.

National Fuel Gas Distribution Corporation ("National Fuel" or "the Company") submits the following Comments regarding the questions stated in the Order.

**II. Comments**

- 1. What is the current status of retail natural gas competition for customers, by class and by service territory, and for NGSs [sic]? For each such customer class and service territory, how accessible are competitive suppliers?**

The current status of retail natural gas competition in National Fuel's service territory is healthy. Comparing data for the month of October over the last four years illustrates a steadily increasing trend toward customers with an NGS. In October 2009 0.9%<sup>1</sup> of National Fuel's total customers were with an NGS; whereas in October of 2013, 16.2% of National Fuel's total customers were with an NGS. Perhaps more telling is the fact that the percent of total load provided to customers using NGSs has had a similar upward trajectory from 49.8% of total load on National Fuel's system in October 2009 to 71.4% of total load on National Fuel's system in October of 2013.

National Fuel's data shows that over the last four years, the total load in MCF attributable to customers with an NGSs increased over 49% (October 2009 as compared to October 2013). The Industrial customer class has been the class most likely to utilize an alternative supplier and is correspondingly the class with a disproportionate amount of the load attributable to customers with an NGS; in October 2013, nearly 70% of National Fuel's Industrial customers were with an alternate supplier which amounted to 99.2% of the load (MCF) for the month of October 2013 for the Industrial class.

Even though the numbers for the Industrial class are the most impressive, residential and commercial customers have seen steady increases in use of NGSs as well. In October of 2009, 0.1% of National Fuel's residential customers were with NGSs (0.8% of the residential load) and 9.6% of commercial customers were with NGSs (54.4% of the load). In October of 2013, 14.8% of residential customers were with an NGS (16.7% of the load) and 31.8% of commercial customers were with an NGS (74.2% of the load).<sup>2</sup> Although the residential and commercial customer percentages and load are not as impressive as the corresponding numbers for National Fuel's Industrial customer class, it is essential to keep in mind what the Commission noted in its Report to the General Assembly on Competition in Pennsylvania's Retail Natural Gas Market in 2005 (the "2005 Report on Competition") - "[c]ustomer participation in the market is of course dependent on the willingness of suppliers to extend service offers to customers. NGSs may find residential customers unattractive to serve because of acquisition costs, load factors, credit risk and other reasons unrelated to requirements for market participation."

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<sup>1</sup> Unless otherwise indicated, all data reported herein is data measured in the month of October of each year.

<sup>2</sup> According to the OCA's shopping statistics, in June of 2013, 14.2% of National Fuel's residential customers were with an NGS and 12.08% of total residential customers tracked were with an NGS.

While these numbers, regardless of class of customer, are informative, they only illustrate part of the competitiveness of the retail gas market. National Fuel believes an even larger cohort of its customers have "shopped" in the sense that they have become increasingly aware of the retail gas market and have considered their options for natural gas supply - through education provided by National Fuel and by the NGSs, through related information provided by their electric provider and suppliers in that market, as well as through information provided in the news and other sources of public information. While it is impossible for National Fuel to quantify how many of its customers have given serious consideration to NGSs, anecdotal evidence suggests that many of National Fuel's customers are "shopping" even if the result of their shopping is a decision to stay with or return to National Fuel for full retail service. National Fuel encourages the Commission to consider use of an independent third party to conduct state-wide polling, stakeholder meetings or some other mechanism to attempt to independently quantify natural gas customers' awareness of the availability of NGS service.

In addition to the number of customers "shopping" and the corresponding load attributable to customers with an NGS, National Fuel's territory also has a large number of licensed NGSs. As of October 10, 2013 there were 78 Suppliers (or Brokers) licensed to serve customers on National Fuel's system. Of these 78 Suppliers, 30 included residential customers in their requested customer mix, 67 included small commercial, 74 included large commercial and 69 included industrial.

As of October 2013 National Fuel had 8 Suppliers actively serving residential customers (over 26% of the licensed residential suppliers) and 9 Suppliers actively serving non-residential customers in the Company's Purchase of Receivable ("POR") program. In addition, National Fuel has 11 Suppliers actively serving customers that are not included in the POR program.

National Fuel's POR program provided the suppliers with significant encouragement to serve residential customers. Indeed, National Fuel saw a dramatic and immediate increase in migration, particularly migration of residential customers, after it instituted the POR program.<sup>3</sup> In addition to the implementation of the POR program, National Fuel has endeavored to

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<sup>3</sup> Prior to National Fuel's POR program going into effect in the summer of 2010, National Fuel had approximately 100 SATS (Small Aggregation Transportation Supplier Service) customers in total, of which nearly 30 were residential customers. By January 2011, only a few months following implementation, there were approximately 14,700 SATS customers of which approximately 12,700 were residential.

encourage supplier participation by designing and operating its programs similarly in its Pennsylvania and New York territories. National Fuel believes this consistency encourages suppliers to take advantage of opportunities for customers in both of the states where National Fuel operates.

All told, the above statistical information and National Fuel's responses to the additional questions below indicate that effective retail competition exists in National Fuel's territory. In the 2005 Report on Competition, the Commission identified the following factors as indicia of effective competition:

- 1) Participation in the market by many sellers so that an individual seller is not able to influence significantly the price of the commodity;
- 2) Participation in the market by many buyers;
- 3) Lack of substantial barriers to supplier entry and participation in the market;
- 4) Lack of substantial barriers that may discourage customer participation in the market;
- 5) Sellers are offering buyers a variety of products and services.

As noted above, in National Fuel's territory the first two indicia are satisfied. The percentage of total customers with an NGS and the corresponding load attributable to those customers have steadily increased, indicating effective competition. As of October 2013, over 16% of National Fuel's customers were with an NGS with 71.4% of the load; this is up from less than 1% of customers in October of 2009 with 49.8% of the load.<sup>4</sup> Furthermore, National Fuel believes that many more customers are "shopping" and thereby "participating in the market," albeit making the decision to stay with the utility for full retail service. With respect to participation in the market by many sellers, as noted above, National Fuel's service territory includes numerous licensed suppliers who could provide service.<sup>5</sup> Finally, National Fuel is not

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<sup>4</sup> In the 2005 Report on Competition, the Commission looked at throughput volumes and concluded that because throughput under competitive tariff had declined from 50% in 1999 to 47.5% in 2004, effective competition was not indicated. Similarly, the Commission looked at the number of customers obtaining natural gas supply from an NGS and concluded that state wide 11% of customers were with an NGS in 1999 while only 7% of customers were with an NGS in 2004. According to the Commission, that trend also did not indicate effective competition.

<sup>5</sup> In the 2005 Report on Competition, the Commission looked at the average number of suppliers per NGDC and concluded that because the number had declined from 20 in 1999 to 10 in 2004, effective competition was not indicated.

aware of any substantial barriers to entry that are affecting supplier entry or customer entry; again, we believe many if not all of our customers are aware of their options, even if some of those customers ultimately decide to stay with the utility.

The final indicia of effective competition cited in the Commission's 2005 Report on Competition is whether "sellers are offering buyers a variety of products and services." The Office of Consumer Advocate provides a list of licensed competitive suppliers by NGDC and their current offers. According to that list, each supplier on National Fuel's system offers a monthly variable price and most also have other products and services available such as a 1 year fixed price, a fixed price through September 2014, a fixed price through September 2016 and a Guaranteed Savings Program. Thus, this factor suggests that healthy retail competition exists in National Fuel's territory.

**2. Are currently effective NGDC rates properly structured to reflect the separation between the costs of the NGDC's role as a distribution utility and its role as a Supplier of Last Resort (SOLR)?**

Yes. Currently effective NGDC rates are properly structured to reflect the separation between the costs of the NGDC's role as a distribution utility and its role as a Supplier of Last Resort (SOLR). Specifically, National Fuel's Merchant Function Charge and Price to Compare have appropriately identified and unbundled the prices for these functions.

National Fuel filed a voluntary POR program (P-2009-2099182) on March 31, 2009. Within the POR petition a Merchant Function Charge ("MFC") was proposed. The MFC moves the write-off rate associated with uncollectible gas costs from the Company's natural gas delivery charge to its natural gas supply charge. This docket settlement was approved at the June 3, 2010 Public Meeting and the tariff became effective July 15, 2010.

On November 9, 2012 National Fuel filed a revision to Tariff Gas – Pa. P.U.C. No. 9 (R-2012-2333775) proposing to unbundle natural gas procurement costs from the Company's distribution rates and recover these costs through a Gas Procurement Charge that are to be included in the Company's Price To Compare. The docket settlement was approved at the Public Meeting held May 23, 2013 and the tariff became effective June 1, 2013.

**3. Does the existing market design of NGDCs serving as the SOLR present barriers that inhibit customer choice or prevent suppliers from fully participating in the retail market?**

No. The existing market design of NGDCs serving as the SOLR does not present barriers that inhibit customer choice or prevent suppliers from fully participating in the retail market. As provided in response to question 1, customer participation is growing in both number of customers in all classes and in percentage of total load and there is a sufficient and growing number of participating NGSs - all of this despite the continuing presence of the SOLR feature of the market. Indeed, the Pennsylvania legislature recognized the SOLR function as beneficial, not a harmful barrier, when it drafted Section 2207 which states that "[t]he natural gas distribution company shall continue providing services as the supplier of last resort to all of its customers ... unless, at its discretion, it requests and receives commission approval to discontinue providing one or more such supplier of last resort obligations." 66 Pa. C.S.A. 2207(e).

**4. Should NGDCs continue in the role of SOLR?**

Yes. The SOLR function is essential to the stability of the retail gas market. Until such time that it can be clearly demonstrated that an alternative SOLR can take over an NGDC's role without putting access to a reliable source of least cost gas supply at risk, NGDCs must fill the SOLR role.

**5. Are there enhancements and updates to the current SOLR model that would further improve the state of competition within the retail natural gas market?**

- a. Are there opportunities through the potential restructuring of the SOLR model and retail gas market to encourage expansion of natural gas distribution facilities into areas of the Commonwealth that do not currently have access to natural gas facilities?**

There is no link between the current structure of the SOLR model and the expansion of natural gas facilities. Expansion of facilities should depend on whether investment in the pipeline infrastructure needed to expand the system to new customers will be covered by the

rates charged to new customers such that existing customers are not subsidizing uneconomic system expansion. The challenge is to economically expand the delivery system to homes and businesses where current delivery rates are not sufficient to cover the costs of those expanded facilities. The current price differential between natural gas and propane and oil provide a window of opportunity to develop a pricing surcharge mechanism that may support system expansion. Once the delivery system is expanded, new customers should have the opportunity to choose their supplier of natural gas in the same way as existing customers.

**b. Are there changes to the retail natural gas market that the Commission can undertake *de novo* through regulation or policy that would promote retail natural gas competition?**

Changes are not necessary. The rules to allow for active competition are in place. As demonstrated by the response to question 1, retail natural gas competition has grown steadily in National Fuel's territory and future increases, if any, will occur organically. The Commission has already extended more than sufficient resources to promote competition - establishment of Purchase of Receivables, the Merchant Function Charge, and the Price to Compare as well as the recent Interim Guidelines on Customers lists. No further changes are needed at this time.

**c. Are there changes to the retail natural gas market that the Commission can undertake *de novo* through regulation or policy that would remove barriers to retail natural gas competition?**

No. See response to 5.b.

**d. What legislative changes should be made to further improve the retail natural gas market in Pennsylvania?**

In addition to the legislative changes in Pennsylvania House Bill 1188, legislative changes that provide for monthly gas cost pricing on the part of the NGDCs may prove useful in making prices more comparable. Current quarterly pricing mechanisms for NGDC natural gas supply prices tend to mute the market pricing signals for natural gas. By allowing an NGDC or SOLR to price natural gas on a monthly basis without the harness of a Fixed Price Option, price signals would be established that more accurately reflect how natural gas is priced in the wholesale market. A significant portion of natural gas on the wholesale market is priced using



the NYMEX price which closes on the third to last business day of the month setting prices for the following month.

- 6. Are there outcomes from the Commission's recently completed electric RMI that would be applicable and useful to implement in the retail gas market? To the extent possible, please provide comments on the following topics:**
  - a. Seamless Move**
  - b. Accelerated Switching Timeframes**
  - c. Standard Offer Program**
  - d. Low-income customer shopping**
  - e. Expanded Consumer Education about shopping**
  - f. Any additional RMI initiative that would translate well to the retail natural gas market**

The listed initiatives must be carefully examined prior to application to the gas market. They may actually hinder competition by removing protocols that protect customers from unauthorized enrollments. Further, with respect to low-income customer shopping in particular, a fulsome exploration of the issue with input from the Office of the Consumer Advocate and Bureau of Consumer Services is needed before any changes should be considered. In particular with respect to the NGDCs' CAP programs, potential changes would need to be thoroughly vetted because those programs have been designed, reviewed and improved with the goal of increased affordability.

- 7. To take advantage of the opportunity that is present through the Marcellus Shale resource, should NGDCs and NGSs be encouraged to explore opportunities with natural gas exploration and production companies?**

The opportunity to realign gas supply to take advantage of Marcellus shale resources while maintaining system reliability is currently taking place under the NGDC's mandate to provide reliable, least cost service to its customers. No additional, potentially redundant initiatives are needed. Indeed, currently nearly 100% of National Fuel's summer supply and in excess of 75% of National Fuel's winter supply is sourced from Northeast production. As

midstream and interstate pipeline facility expansions occur, opportunities to economically expand NGDC systems may result. While the number of opportunities may grow with the expansion of these systems, there is no fundamental change in how a utility may take advantage of this. Midstream and pipeline expansions provide sufficient lead time for utilities to identify associated utility service opportunities that may result from Marcellus shale system build outs.

- 8. Recognizing that the Commission withdrew the proposed rulemaking addressing NGDC business practices at Docket No. L-2009-2069117 and committed to commencing a new proposed rulemaking on these issues, please provide comments on the continued need to address standardized supplier tariffs and business practices with regard to imbalance trading, tolerance bands, cash out and penalties, nominations and capacity.**

Any future rulemaking must take into consideration the structural differences among the NGDCs and the risk of denigration to an NGDC's system reliability if the types of business practices cited in this question are not thoughtfully and carefully considered. The development of supplier tariffs and business practices with regard to imbalance trading, tolerance bands, cash outs and penalties, nominations and capacity must be relevant to and reflective of individual assets available. With the influx of shale supplies, asset portfolios have and will continue to evolve. A "cookie cutter" approach without regard to the asset mix will degrade system reliability.

### **III. Conclusion**

National Fuel appreciates this opportunity to comment on the state of the retail gas market in Pennsylvania.

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Respectfully submitted,



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