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2007 N.Y. PUC LEXIS 449;; 262 P.U.R.4th 233

New York Public Service Commission

December 21, 2007, Issued and Effective; December 21, 2007, Issued and Effective

CASE 07-G-0141

Reporter

2007 N.Y. PUC LEXIS 449;; 262 P.U.R.4th 233

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service

Disposition: [*1] ORDER ESTABLISHING RATES FOR GAS SERVICE

Core Terms

staff, customer, recommend, pension, administrative law judge, intervenor, fuel, transport, meter, defer, rate base, energy, ratio, depreciate, income tax, delivery, subsidiary, profile, utility company, score, ratepayer, proxy, replacement, appendix, insurance proceeds, natural gas, retirement, royalty, annual, estimate

Panel: COMMISSIONERS PRESENT: Patricia L. Acampora, Chairwoman; Maureen F. Harris; Robert E. Curry, Jr.; Cheryl A. Buley

Opinion

At a session of the Public Service Commission held in the City of New York on December 12, 2007

BY THE COMMISSION:

INTRODUCTION

On January 29, 2007, National Fuel Gas Distribution Corporation (NFG or the Company) filed revised tariffs to change its rates, charges, rules and regulations for natural gas service. By its filing, the Company has sought to increase base rates by $ 51.981 million (6.4% of the annual gas revenues expected in 2008). The rate filing has been suspended through December 27, 2007. Public statement hearings were held on July 11, 2007 in Buffalo and Niagara Falls. Evidentiary hearings were held in Albany on July 24 and 25, 2007.

The presiding officer assigned to this case rendered, on September 28, 2007, his recommendations for the Commission to consider. In his report, Administrative Law Judge William Bouteiller has recommended that NFG be allowed to increase its delivery rates for natural gas service by $ 2.5 million.

Four parties have taken exception to the presiding officer's recommendations, NFG, Department [*2] of Public Service (DPS) Staff, the State Consumer Protection Board (CPB) and Multiple Intervenors, an unincorporated association of about 50 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout the State. Each of the parties has also responded to the other parties' exceptions. In addition, the Independent Oil and Gas Association of New York, Inc. (IOGANY) and Constellation NewEnergy Gas Division, LLC (Constellation) submitted letters on November 1, 2007. IOGANY supports the exceptions filed by DPS Staff concerning the replacement of the local gas producers' meters. Constellation has addressed an exception submitted by CPB concerning the use of a

revenue-sharing mechanism for off-system sales and capacity releases. [1]

Having considered the parties' exceptions, and the public comments received in this case, we have decided to adopt the presiding officer's Recommended Decision, but [*3] with certain modifications. Our determination on the matters raised on exceptions is provided below. In sum, NFG is authorized to increase its natural gas delivery rates by $ 1.8 million.

REVENUES

No contested issues are presented in this case concerning the projected sales volumes, the Company's revenue forecast or the revenue decoupling mechanism that NFG has proposed to implement starting in 2008. The only revenue issue concerns certain late payment charges.

Late Payment Charges

NFG applies late payment charges, or interest of up to 1.5% per month (Public Service Law §42(1)), to the arrears portion of the deferred payment agreements that some customers sign to avoid termination of service and catch up on their past due amounts. A deferred payment agreement is a written agreement between a gas or electric utility and a customer under which a customer with arrears agrees to pay his or her current bill plus a contribution towards arrears each month. If a customer abides by the terms of the agreement, service is not terminated. Public Service Law §37 requires gas and electric utilities to offer deferred payment agreements to residential customers threatened with service termination. [*4] Other gas and electric utilities do not charge any such interest. The Company continues to adhere to its position that it is lawful to collect these late payment charges, and it is not interested in eliminating them.

In this case, DPS Staff has proposed to require NFG to discontinue collection of interest on arrears under deferred payment agreements and eliminate the revenues derived from these charges. The administrative law judge determined that Staff had not shown an adequate basis, as a matter of law, to direct NFG to cease its practice. He therefore made no downward adjustment in the Company's revenues as Staff proposed.

On exceptions, DPS Staff insists that NFG should cease collecting the late payment charges as a matter of just and reasonable rates. It asserts that, in 1999, the Commission stated a policy preference concerning the late payment charges and the Company has contravened it since then. [2] In response, NFG argues that the Public Service Law permits it to collect these late payment charges and its action is not in contravention of law.

[*5]

In January 1999, the Commission considered the applicable provisions of the Public Service Law and determined it appeared that application of interest to amounts subject to a residential deferred payment agreement is prohibited except as to payments the customer has failed to make pursuant to the agreement. [3] It gave gas and electric utilities an opportunity to rebut its statutory interpretation, however. NFG and other utilities provided arguments in opposition to the Commission's statutory construction. NFG is now the only gas or electric utility imposing interest charges on balances covered by deferred payment agreements.

By an Order adopted in Case 99-M-0074 at the same session as this one, we adhere to the Commission's 1999 view that late payment charges will only be assessed on amounts that are delinquent under the terms of a late payment agreement. We are accordingly requiring National Fuel to file tariff amendments eliminating its assessment of late payment charges

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[1] By letter dated November 5, 2007, NFG responded to Constellation.

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[2] Case 99-M-0074, Application of Late Payment Charges to Deferred Payment Agreements, Order Directing Utility Filings (issued January 22, 1999) (Late Payment Charge Order).

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[3] Id., p.4.

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on balances recovered through [*6] a residential deferred payment agreement. Revenues associated with interest that the Company collects on deferred payment agreements are accordingly being removed from its revenue forecasts. NFG's uncollectible expense has been calculated using the Company's estimate rather than the one adopted by Staff. Consequently, we find no reason to adopt the true-up mechanism that Staff proposed for this expense item.

EXPENSES

Property Taxes

For the twelve months ended April 30, 2007, NFG states that its property taxes were slightly under $ 30.3 million. The administrative law judge has recommended that we use Staff's approach for estimating the amount of property taxes for the rate year. Staff used the latest known actual taxes, at the time it provided its testimony, and increased the amount by the average annual percentage increase in property taxes over a recent five-year period. NFG excepts to the judge's recommendation.

Rather than Staff's 3.07% average annual property tax increase, the Company would have us apply either a 3.6% or a 3.5% increase to the latest known taxes. The 3.6% is the amount by which NFG's property taxes increased from 2006 to 2007. The 3.5% is the rate that [*7] the Company forecast in this case.

According to NFG, it is reasonable to expect property taxes in Erie County to rise by as much as 5.7% in the upcoming year. It states that property re-evaluations are expected to increase taxes by 3.0% and the tax rate is expected to rise by 2.7%. About 70% of the Company's property tax payments go to taxing jurisdictions in Erie County. NFG also claims that the fiscal problems besetting the City of Buffalo will cause property taxes there to rise significantly in excess of the amounts experienced in recent years.

Further, the Company claims the five-year average is too low because it succeeded in various tax certiorari matters (and other tax challenges) during this period that temporarily reduced the assessments. NFG states that there are currently no tax challenges pending.

In contrast, DPS Staff doubts that Erie County will increase property taxes during the 2008 calendar year. It points to a recent news report that supports its position. Staff continues to advocate for the use of the latest known taxes and a five-year average annual increase.

We find that the DPS Staff approach, as recommended by the presiding officer, is proper. The actual tax [*8] amounts for 2008 remain uncertain at this time and it is not clear that taxes will increase by the same amount they increased in any particular year. Therefore, we will use the latest known taxes as of September 30, 2007 and the most recent, five-year average annual percentage increase to arrive at a proper amount for the 2008 rate year. This approach does not depend upon any single year results. Instead, it relies on the recent trend for ratemaking purposes. We find that the five-year trend is not overly influenced by any property tax settlements. Moreover, tax challenges could also occur in the future and affect tax levels. NFG's exception is denied.

Health Care Costs

NFG expects its health care costs to increase by at least 12% during the rate year. Rather than use the Company's estimate, the administrative law judge agreed with DPS Staff that health care costs should be included in the expense group to which the general cost escalation rate is applied. This ratemaking approach has been used for many years and the Commission has not departed from it in setting rates for utility companies. NFG excepts to the judge's recommendation.

According to NFG, we should depart from the [*9] established practice because circumstances have changed since it was first adopted. According to NFG, health care cost increases have exceeded the general rate of cost escalation since the early 1980s. For this reason, the Company believes we should allow for a 12% cost increase in this expense item. NFG believes it would be an arbitrary exercise of authority to continue to place health care costs in the "inflation pool."

In the recent, fully-litigated New York State Electric & Gas Corporation electric rate case decided in December 2006, the Commission continued to include health care costs with the expenses that are estimated using a general inflation factor.

While NFG may consider this approach arbitrary and would prefer that the results of a stand-alone forecast of health care costs be used, the Commission has adhered to the group approach for well over two decades as an established practice and element of its ratemaking approach for regulated utilities. We are unwilling to modify the standard convention and, therefore, NFG's exception is denied.

Injury and Damages

As of April 30, 2007, NFG's annual amount of injury and damage costs was slightly over $ 2.9 million. Staff [*10] would adjust this expense downward. The Company accepts Staff's base amount for this item and Staff's proposal to apply the general escalation rate to it. However, NFG disagrees with Staff's reasons for making a specific adjustment to the base amount. The administrative law judge recommends Staff's approach.

DPS Staff began with a three-year average for injuries and damages and reduced it for an expected decline in worker compensation insurance rates. To the lower amount, Staff applied the general escalation rate to arrive at its estimate for the rate year. According to the Company, it is not certain that worker compensation costs will decline. The only support Staff provided for its adjustment is a newspaper article. NFG would prefer to see the guidelines that are issued to implement the *Workers' Compensation Benefit Increase & Reform Bill* before it would credit a cost savings. In fact, the Company believes that several elements of the bill could increase its costs.

Moreover, the Company claims that Staff's treatment of injury and damages is inconsistent with the approach used for health care costs. It asserts that the same method should be used in both instances and no adjustment [*11] should be made to the injury and damages expense item if no upward adjustment is made to health care costs. NFG contends that the evidence for expecting a 12% increase in health care costs is stronger than the support Staff provided for a 10% decrease in injury and damages.

We find that that it is proper to use a three-year average to establish the base amount for this expense. The use of this average eliminates annual variations and swings in the level of this expense and provides a representative amount that works best for ratemaking purposes. We also find that a fair reading and examination of the *Workers' Compensation Benefit Increase & Reform Bill* provides a reasonable basis to reduce injury and damages by a modest amount. The 10% reduction proposed by Staff is not out of line with reasonable expectations. Moreover, the guidelines that NFG would prefer to examine are not currently available. Therefore, Staff's estimate will be used.

Finally, there is no obvious or direct relationship between the treatment for injury and damages, and the health care costs to which NFG would compare them. The approach for each item has been independently determined and each stands on its own [*12] merits. The *Workers' Compensation Benefit Increase & Reform Bill* is a known change for which a specific adjustment is warranted. In contrast, the Commission has chosen, as a matter of its standard ratemaking practice, to forego the use of a stand-alone estimate of health care costs. The approach used for both expense items is rational and there is no inconsistency as NFG would suggest. The Company's exception is denied.

Avian Flu Expense

The administrative law judge recommends that we allow in rates $ 329,000 for NFG to prepare for an avian flu pandemic. The judge also required the Company to provide a detailed description of its preparations and plans with its brief on exceptions. On exceptions, NFG provided an updated cost estimate for the supplies it plans to purchase and place at 24 locations in the service area.

DPS Staff continues to oppose a rate allowance for this item pointing to the fact that the Company identified this expenditure a year ago and has not taken any action to acquire the medical supplies to date. According to Staff, this delay demonstrates a possibility that the supplies will not be purchased during the rate year. Instead of providing an expense [*13] allowance in rates, Staff recommends, in its reply brief on exceptions, that NFG be allowed to recover its avian flu expenses (up to $ 329,000 for the rate year) from funds available in the Cost Mitigation Reserve if they are incurred by no later than December 31, 2008.

We find that DPS Staff has proposed an acceptable approach for providing NFG the funds needed for it to obtain and stock useful supplies to combat an avian flu pandemic were one to occur. We are adopting the Staff proposal which will allow the Company to charge the Cost Mitigation Reserve for its actual expenses up to the amount estimated in this case.

Productivity Adjustment

In its brief on exceptions, DPS Staff urges us to apply to NFG the standard 1% productivity adjustment that is customary in rate cases like this one. The Commission typically applies a productivity adjustment to ensure that the utility company is considering and making efficiencies throughout its operations. The administrative law judge did not apply the standard 1% productivity adjustment to NFG because he accepted Staff's proposed employee count which reduces the Company's workforce by 54 positions. NFG has not taken exception to the recommended [*14] employee count for the upcoming rate year.

According to DPS Staff, the 1% productivity adjustment should be independently applied to the Company apart from the workforce reduction. According to Staff, the workforce reduction is a known change. Staff believes an additional 1% should be taken for unknown and unquantified productivity savings that NFG can obtain in its information services and transportation operations, among other places.

In response, the Company points to its 1993-94 rate case in which a 1% productivity adjustment was made because no adjustment was made for the smaller workforce expected during an upcoming rate year. [4] In this instance, where a workforce reduction equivalent to a 6% productivity adjustment has been taken, the Company believes the judge correctly recommended that the standard productivity adjustment be omitted.

In this instance, we find that the amount [*15] by which NFG is reducing its workforce provides a sufficient incentive for it to continue to achieve cost savings throughout its operations. In these circumstances the standard 1% productivity adjustment can be omitted. The DPS Staff exception is denied.

Management and Executive Compensation

1. Management Pay Raise

DPS Staff proposed that the rates set here include for NFG's management personnel no greater a pay increase than the 2.75% for 2007 and 2.55% for 2008 that the Company's hourly workers will receive. Accordingly, Staff proposed that the 3.5% increase the Company presented for management employees be reduced. The administrative law judge recommends against the DPS Staff proposal. He did not consider the proposed 3.5% for managers to be out of line with current results for other firms nor did he believe that increases for management salary workers should necessarily be tied to the increases negotiated for union-represented, weekly employees.

In its brief on exceptions, DPS Staff points out that the Commission made a similar adjustment in the 1994-95 NFG rate proceeding. [5] It believes that management pay raises should be about the same as the increases provided to [*16] the weekly employees. For this reason, it claims that the Commission should apply in this case the same kind of adjustment that was made in the last, fully-litigated NFG rate case.

According to NFG, there is no established Commission policy that requires management salary increases to match the wage increases provided pursuant to union contracts. In this case, the Company has sought to demonstrate that the job requirements for managers differ from those of union workers. NFG has also noted that its managers do not receive any overtime and this difference alone, in the Company's view, warrants a difference in the pay increases for the two groups.

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[4] Case 93-G-0756, National Fuel Gas Distribution Corporation - Gas Rates, Opinion No. 94-16 (issued July 16, 1994) pp. 35-36.

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[5] Cases 94-G-0885 and 93-G-0756, National Fuel Gas Distribution Company - Rates, Opinion No. 95-16 (issued September 15, 1995) pp. 18-21.

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We find that differences exist in the means that are used to establish the proper amount of compensation for wage earners and salaried employees. The differences can produce results that are not identical but, nonetheless, are proper [*17] for each group of employees. On the facts presented here, we do not find sufficient reason to limit the amount for the salaried employees to the amounts that were negotiated for the wage earners. Accordingly, the Staff exception is denied.

2. Lump Sum Payments

NFG managers receive base salary percentage increases and lump sum payments. The Company uses the lump sum payments to manage and limit the amount of the base pay increases over time. DPS Staff would eliminate $ 512,000 of lump sum payments that the Company claimed in its rate filing. According to Staff, the lump sum amount is a double count. The administrative law judge recommended that the Company and Staff provide better demonstrations of the accounting used for this item to assist in the determination whether or not the lump sum payments were double counted.

According to Staff, the entire rate year amount for the management employees is included in the Company's base payroll and no separate amount for lump sum payments should be allowed. On the other hand, NFG claims that it did not double count the lump sum payments. It states that the total amount of management compensation for the rate year is slightly over $ 19 million [*18] and this amount includes both the annual base payroll and the lump sum payments, and it represents a 3.46% increase. Thus, the Company argues against the application of Staff's $ 512,000 adjustment.

From our review of the amounts claimed and shown for management compensation, we find no need to provide any separate amount for lump sum payments. Having rejected Staff's proposal to limit the amount for salaried employees, we have allowed in rates fully for their compensation whether it is paid to them in the form of base compensation or is limited to a lump sum for the rate year period. No proper basis has been shown for providing anything further.

3. Executive and Top Hat Retirement Plans

DPS Staff proposed a $ 905,000 rate year expense reduction to disallow the amount that NFG claimed for its executive retirement plan. Staff would also disallow comparable amounts the Company has shown for fiscal years 2005 and 2006 that are subject to deferral accounting. Staff considers the executive retirement benefit to be excessive and it disagrees with the benefit being provided to a small group of executives. The administrative law judge recommended against Staff's adjustment because neither [*19] the Company nor Staff provided a full examination of the total compensation provided to executives and the reasonableness of such amounts. Instead, he recommended that the Company be required to provide, the next time it submits a major rate filing, an executive compensation study for Staff to critically examine.

NFG also provides certain, high-level employees "Top Hat" retirement benefits. DPS Staff similarly considered these benefits to be excessive and proposed that they be disallowed for ratemaking purposes. The administrative law judge recommended in favor of Staff's adjustment here because NFG did not provide a good explanation for this program and did not justify it with the other forms of compensation provided to management personnel.

In its brief on exceptions, Staff asserts that there is adequate evidence for the Commission to find NFG's executive retirement plan discriminatory. The plan is a defined benefit pension plan that is only available to corporate officers at the discretion of the parent company's chief executive officer. Currently, the plan receives contributions for 16 active executives and provides benefits for 22 retired executives. In several recent rate proceedings, [*20] the executive retirement plan has been treated variously.

In response to Staff, the Company asserts that its executive compensation is not excessive. It states that the retirement plan restores pension benefits to corporate officers that are not otherwise available to them due to Internal Revenue Service (IRS) limitations. According to it, the executive retirement benefits have been recoverable since the inception of the Commission's Policy Statement on Pensions and OPEBs and the amount requested in this case is in line with the amounts allowed in previous cases.

In further support of the executive retirement plan, the Company states that the plan is not unique. According to NFG, 85% of all utility companies offer some type of non-qualified executive retirement benefits and over two-thirds offer executives a benefit restoration plan. Thus, NFG asserts that its program is consistent with industry practice.

With respect to the Top Hat program, the Company explains that it has been in effect since 1980 and the Commission has previously allowed it, without adjustment, for ratemaking purposes. According to NFG, this program should receive a presumption of reasonableness and, contrary to [*21] the judge's view, it was sufficient for the Company to address Staff's specific challenge without addressing the context in which the program operates.

In response to Staff, the Company asserts that the Top Hat retirement benefit is not excessive. It points out that the amount in dispute is only $ 65,000 which is being paid to non-officer retirees to make up for the limits on their retirement benefits and to provide benefits they would otherwise lose. According to the Company, the Top Hat program permits employees to earn retirement benefits in relationship to the salary they receive.

We agree with the administrative law judge that the record in this case would have benefited had NFG provided an executive compensation study to demonstrate the reasonableness of the total amount of compensation that its executives and top management personnel receive. We expect the Company to provide such a study in its next major rate filing to support the amounts it claims for executive and management compensation. [6]

[*22]

Addressing the two retirement plans that Staff would exclude from rates, we find that it is acceptable for the Company to provide its executives and managers in the Top Hat program retirement benefits in proportion to their salaries and as an extension to the qualified retirement benefits that the executive and managers receive.

Site Investigation and Remediation

NFG currently collects in rates about $ 600,000 a year to pay for environmental investigation and remediation at sites where manufactured gas was once produced. The Company requested, and the administrative law judge has recommended, that an additional $ 900,000 be included in rates for the environmental clean up of the manufactured gas sites.

Staff believes that NFG should have received a greater portion of certain insurance proceeds that were obtained in 1999 by National Fuel Gas Company, NFG's parent, and were distributed to the subsidiary companies. In the 1990s, the parent company pursued claims against various insurance companies that had provided liability insurance over the years for the operations conducted at the manufactured gas sites. As a result, a monetary settlement and a replacement insurance policy [*23] were obtained. The parent company distributed 51.72% of the monetary settlement to NFG and 40.94% of the replacement insurance proceeds to it for a total disbursement of 46%. It used the amount of the premiums paid by each subsidiary to the insurance carriers to distribute the proceeds to them.

In this case, DPS Staff has asserted that the proceeds should have been distributed using a measure of the liabilities the subsidiaries are incurring for site investigation and remediation work. In a recent period, NFG incurred 85.41% of all the SIR expenses that the affiliated companies experienced. For this reason, Staff has claimed that NFG should have been allocated $ 14.6 million more of the insurance proceeds than it obtained in 1999. The administrative law judge did not adopt Staff's proposal. He did not consider the "premiums paid" allocation to be unreasonable per se and he did not consider Staff's proposal for an 85.41% allocation acceptable.

In its brief on exceptions, Staff continues to seek an allocation of the SIR proceeds to the subsidiary companies based on the amount of their claims or losses. According to Staff, the "premiums paid" approach does not produce a just and reasonable [*24] result. A wiser course, according to Staff, would have had the parent company distribute the insurance

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[6] The study should include all forms such as base pay, incentive/bonus/lump sum payments, current employee benefits (medical, dental, etc.), deferred compensation (the pensions and other post employment benefits) and share based compensation. Any studies comparing NFG levels of compensation to other employers shall not be limited only to other utilities but should also include other local and regional employers and labor markets where workers with similar skills are sought. Also, for the studies, parties must have access to the underlying data whether in the possession of NFG or another party (subject to trade secret protection) used in developing compensation comparisons or otherwise demonstrating the reasonableness of NFG executive/management compensation policy.

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proceeds to the subsidiary companies in proportion to the SIR costs they actually incur.

In support of its position, Staff states that, at a minimum, NFG should have received 64% of the total proceeds rather than the 46% it was given. At the time that the parent company decided on the allocations to the subsidiary companies, it was aware that NFG's liabilities were 64% of the total amount estimated. Also, with NFG having incurred 85% of the total SIR costs between 1998 and 2006, Staff believes that the allocations made in 1999 should be revisited and adjusted to increase the amount provided to NFG. In support of an 80% allocation to NFG, Staff states that the National Fuel Supply Corporation has incurred less than $ 2 million in SIR costs even though its liability was first estimated to be about $ 71 million.

In response, NFG insists that it should continue to receive a full allowance in rates for the SIR costs it expects to incur. The Company defends the parent company's allocation of the 1999 insurance proceeds and states that the ″premiums paid″ approach was reasonable at the [*25] time the allocation was made. The Company criticizes Staff for claiming that the allocation subsequently became unreasonable and should now be altered.

NFG points out that the parent company's action against the insurance carriers has saved ratepayers $ 17 million of SIR costs that would have otherwise been charged to them. Had the parent company lost its claims in unsuccessful litigation, or had it not presented any cause of action, the Company believes that ratepayers would have been worse off. NFG criticizes Staff for not recognizing the advantage that was achieved for customers and for seeking to impose a perverse penalty on it for benefits obtained for ratepayers.

The Company also states that the distribution of the insurance proceeds did not favor or advantage any non-regulated affiliated companies. The vast bulk of the proceeds went to customers of the interstate and intrastate regulated operations. According to the Company, it would not be fair or reasonable for interstate customers and Pennsylvania ratepayers to receive less of the insurance proceeds than was distributed to them.

Finally, NFG urges that we not employ hindsight in evaluating the parent company's allocation [*26] decision. According to the Company, the allocation of the proceeds was reasonable when it was made and the allocation remains reasonable even now. Rather than adopt a ″wait and see″ approach, the parent company chose to distribute the funds in 1999 because any one of the three regulated operations could have consumed all of the insurance proceeds. Concerning Staff's statement about National Fuel Gas Supply Corporation's smaller-than-estimated liabilities, the Company asserts that this company may still have to make the greater expenditures should site investigation and remediation be required for its locations.

Multiple Intervenors supports Staff's position. According to it, the parent company disadvantaged NFG by providing the other subsidiaries as much of the insurance proceeds as it did. Like DPS Staff, Multiple Intervenors believes that the insurance premiums paid by the various companies bear no relationship to the claims they could make, and the liabilities they incur provide a better basis for allocating the insurance proceeds. Multiple Intervenors believes that the parent company should be held to a high and rigorous standard when making such allocations. To the extent that [*27] the unregulated and competitive subsidiaries did not obtain undue benefits, Multiple Intervenors states that the allocations are satisfactory. [7] Nonetheless, Multiple Intervenors believes that the parent company should have provided NFG a greater portion of the insurance proceeds for the large amount of SIR costs that it has incurred. Finally, Multiple Intervenors states that we are not bound by the actions taken by the parent company and the Commission may adopt a different allocation of the insurance proceeds if necessary to set just and reasonable rates.

We find that the National Fuel Gas Company, in 1999, could have allocated the insurance proceeds to its subsidiary companies using one of two methods. Instead of choosing the ″premiums paid″ method, the parent company could have used the information it had about the potential liabilities that each subsidiary had and it could have allocated the insurance funds to the several companies using this information. [*28] Had it done so, NFG would have received 64% of the proceeds instead of the 46% it obtained.

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[7] Multiple Intervenors' Brief on Exceptions, p. 15, n. 17.

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We agree with DPS Staff and Multiple Intervenors that the allocation that the National Fuel Gas Company should have made, in 1999, should have taken into account the estimates that were available at the time of the liabilities that each subsidiary company was facing. We find that the proper allocation of the insurance proceeds should have been made in proportion to the companies' respective exposure to liabilities. For this reason, we find that the 46% allocation of the insurance proceeds was unjust and unreasonable at the time it was made and that the proper allocation in 1999 should have been 64% of the total proceeds to NFG. To correct the action taken by the parent company, we are requiring that NFG receive credit on its books for the additional insurance proceeds that it should have been provided. Otherwise, we are not altering the amount of the ratemaking allowance that the administrative law judge has recommended for SIR costs.

Royalty

DPS Staff has proposed that a 1% ($ 1.6 million) royalty adjustment be applied to NFG to account for any benefits that its unregulated affiliates **[*29]** may obtain from their relations with the public utility company. The Commission began to apply such adjustments to telecommunications firms and natural gas companies in the 1990s. However, no such adjustment has been applied to NFG since its rates have been set using the joint proposals and the settlement results that were achieved in rate proceedings since the mid-1990s.

The administrative law judge was not persuaded that any such adjustment should apply to NFG in the circumstances currently pertaining to the public utility, the parent company and the unregulated affiliates. He did not find Staff's case persuasive because it did not critically assess NFG's current relations with its affiliates that are subsequent to the introduction of affiliate rules intended to preclude poor practices.

In its brief on exceptions, DPS Staff asserts that it has provided five examples of the types of concerns that continue to support the application of a 1% royalty adjustment to NFG. In addition, Staff denies that there has been any interruption in the application of the royalty adjustment to NFG. It states that the basis for such adjustments were included in Staff's negotiating position in the rate **[*30]** cases that were settled. Staff also claims that NFG would have had up to $ 1.5 million of accumulated interest if the holding company had provided it all the site investigation and remediation (SIR) insurance proceeds it should have received. On this basis alone, Staff believes that a 1% royalty adjustment should apply in this case. In response, NFG asserts that the adoption and implementation of affiliate rules, since 2002, has obviated any need to apply a royalty adjustment. The Company also addressed Staff's five examples.

1. Federal Income Taxes

DPS Staff points to the agreement that National Fuel Gas Company, the parent company, executed with the Securities and Exchange Commission (SEC) that requires each subsidiary to calculate and record its federal income tax expense on a separate basis without regard to the tax losses of an affiliated company. According to Staff, the agreement provides the parent company a ″no strings attached recovery″ for tax losses. To the extent the tax loss of a subsidiary reduces the taxable income of the consolidated group, the parent company pays less income taxes and an amount equal to the tax reduction is transferred to the company that generates **[*31]** the loss.

Staff states that, since 1976, NFG has collected federal income taxes that were never paid to the government because an unregulated subsidiary had tax losses. According to Staff, as a result of the agreement with the SEC, ratepayer payments were transferred to the non-regulated subsidiary.

NFG admits that an affiliated company was in a tax loss position in 1995 when the Commission applied to it a 1% royalty adjustment. However, the Company asserts that these circumstances no longer pertain. According to it, the affiliated company currently has taxable profits and is expected to remain in a taxable position during the rate year. Further, NFG asserts that, over the past ten years, the affiliated companies' federal income tax returns, exclusive of NFG, have generated cumulative amounts of taxable income that exceeded any tax losses. Thus, it denies that any affiliated company is currently receiving any subsidy from NFG and that the basis that existed in 1995 for a royalty adjustment no longer applies.

2. Earnings Base/Capitalization Adjustment

According to DPS Staff, differences in the way that the Company's rate base is set in New York and Pennsylvania support the application [*32] of a royalty adjustment to NFG. Apparently, the two approaches do not coincide and, from this, Staff believes that either a royalty adjustment should attach or NFG should separate its operations in the two states.

In response, NFG asserts that Staff's position makes no sense. According to it, the creation of separate corporate entities to provide natural gas service in New York and Pennsylvania would be wasteful and would increase costs to ratepayers. Further, NFG does not believe that any differences among the internal divisions of a regulated, public utility company should form the basis for a royalty adjustment. Moreover, NFG states that the differences in the two rate base calculations have not been shown to be injurious to New York ratepayers.

3. Common Cost Formula

Staff is also critical of a common cost allocation factor that is used by the holding company. The Total System Allocation Factor (TSAF) is used to allocate administrative costs, general salaries, office supplies, and general expenses. The TSAF is the average of total gross plant, total net plant, total throughput, number of employees, and operation and maintenance expenses. With respect to the total throughput [*33] element of the cost allocation factor, Staff asserts that there was a problem with its application to unregulated subsidiaries that was addressed by the Commission in Case 28447. [8]

According to NFG, the dispute and circumstances resolved in Case 28447 do not pertain to this case where Staff has not challenged the common cost allocations it has presented. Further, it states that no longer is there a problem with the calculation of the unregulated subsidiaries' sales because the TSAF no longer uses the sales concept. It now requires a throughput measure which the Company says is a totally different concept.

4. Executive Compensation

When the royalty adjustment was applied to NFG in the 1990s, Staff had sought but did not obtain certain information about executive compensation. In this case, Staff states that it has also requested executive compensation information for subsidiary [*34] firms that was not provided.

In response, NFG considers Staff's executive compensation argument specious. NFG states that it provided Staff the detailed, historic information concerning the executive compensation paid by the affiliated companies. NFG did not provide Staff any forecast data for the rate year because no such data exist. The affiliates do not produce any forecast of their expected executive salary expenses for any of their normal business purposes.

5. SIR Insurance Proceeds

According to Staff, had the parent company provided to NFG the proper amount of the site investigation and remediation (SIR) proceeds that were obtained from the insurance carriers, the Company would have been able to accumulate up to $ 5 million in interest on the proceeds. Staff believes a royalty adjustment should apply to NFG due to the parent company's handling and distribution of the SIR insurance proceeds.

In response, NFG states that the evidence of record does not support Staff's assertion that ratepayers lost $ 5 million of accumulated interest. No such rationale was developed and provided on the record. Moreover, NFG states that the bulk of the insurance proceeds were provided to the [*35] regulated subsidiaries whereas the royalty adjustment is intended to address the advantages that non-regulated affiliates obtain from their association with the regulated firms. Thus, the Company maintains that the royalty adjustment has no application to this context.

6. Discussion

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[8] Case 28447, National Fuel Gas Distribution Corporation - Gas Rates, Opinion No. 83-26 (issued December 20, 1983) mimeo pp. 29-40.

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We find that DPS Staff has not presented a sufficiently developed case for applying a royalty adjustment to NFG at this time. Moreover, DPS Staff has not shown how the affiliate transaction rules that substituted for the use of a royalty adjustment have failed to serve the purposes for which they were established. In the circumstances presented here, we will not require any such adjustment.

Depreciation

In this case, NFG has proposed to use remaining life depreciation rather than the whole life method that has served as the basis for depreciating the Company's assets. NFG has also proposed that H-curves be used instead of the Iowa curves that are currently used. In addition, NFG has requested that the 70-year service life for plastic mains be reduced to 55 years. These proposals would collectively increase the Company's revenue requirements by $ 8.9 million. Most of the increase is due to the [*36] shorter service life proposed for plastic mains. The administrative law judge has recommended against these depreciation changes and NFG has taken exception. The Company also takes exception to the judge's recommendation to use the same average service lives for meters and house regulators that apply to the service facilities to which they are attached.

1. Remaining Life Depreciation

NFG prefers to use remaining life depreciation because its use assures full recovery of capital investments ratably and consistent with the life estimates that are adopted. It disfavors the whole life depreciation method because it contains no such workings that ensure full recovery. This approach requires the use of a reserve true-up which, according to the Company, is an unnecessary burden. NFG considers the remaining life method to be superior and claims that its use would not bring about a large change in rates. Only about 4% percent of the Company's claimed depreciation expenses are attributable to the proposed change in the depreciation methodology.

DPS Staff supports the continued use of whole life depreciation because it requires the utility company to examine the mortality characteristics [*37] of its plant and assets, and to address them as necessary. In contrast, the remaining life method does not provide the Company's managers any useful indicators that can alert them to emerging infrastructure requirements.

Multiple Intervenors also supports the continued use of whole life depreciation, given the Commission's past reliance on this method and the Commission's rejection of the remaining life approach in a recent rate proceeding involving another utility company.

We find that NFG has not provided any compelling reasons, or a persuasive basis, to switch from the whole life to the remaining life depreciation method. While the Company may consider the use of a reserve, true-up mechanism as an unnecessary burden, Staff favors this mechanism for the opportunity it provides for periodic review of the currently prevailing depreciation characteristics and the adequacy of the established depreciation rates. For the reasons provided by DPS Staff and Multiple Intervenors, we deny NFG's exception to the judge's recommendation.

2. Iowa Curves

According to NFG, New York should join with public utility commissions in the other 49 states that have decided to use Iowa curves instead [*38] of H-curves. According to the Company, Iowa curves provide an appropriate statistical comparison of the life characteristics of the assets used by natural gas companies. It asserts that the H-curves were developed primarily for use with telecommunication assets. Since the Commission has allowed three utility companies to use Iowa curves for some purposes, NFG insists that we should also allow it to use Iowa curves. [9]

In response, DPS Staff does not consider Iowa curves to be any better than H-curves for use by natural gas distribution companies. It states that the mortality data to which the curves are applied is just as significant as are the statistical

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[9] The three companies are Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation and KeySpan.

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measures. Staff doubts that the Iowa curves would provide any more accurate results if they are used with NFG's mortality data. Staff acknowledges that other utility companies have been allowed to use Iowa curves in some instances; however, it also [*39] notes that one of the three companies to which NFG points has recently proposed to switch back to H-curves.

Here too, we find no compelling reason or persuasive basis to replace the use of H-curves or to provide general endorsement for the use of Iowa curves. Consistent with past practice, we will continue to examine the adequacy of NFG's depreciation practices using the H-curves that are capable of rendering proper depreciation rates.

3. Plastic Mains

In its brief on exceptions, NFG insists that currently available information indicates that the 70-year average service life for plastic mains is too long. It notes that plastic mains have only been in service for 30 years and statistical analysis cannot provide assistance in selecting the correct service life for the plastic mains at this time. Nonetheless, NFG believes that there are good reasons to use the 55-year life that it proposed.

NFG observes that gas utility companies outside New York are using service lives between 50 and 60 years for plastic mains. The Company also points to the environmental and geographic conditions in its service area, confirmed by its experience in relocating mains, as supporting the use of a shorter [*40] life. From its actual experience, NFG has found that the early vintage plastic mains have become brittle to the point of leaking and failing. According to the Company, safety considerations support the replacement of these mains at a quicker pace.

DPS Staff confirms that there is insufficient mortality data currently available to set the average service life for NFG's plastic mains using such data. In these circumstances, Staff would continue to use the established 70-year average service life. Staff does not consider the plastic mains a safety hazard and it believes that it is premature to set a shorter service life for the plastic mains on the basis of the information for an early vintage that is not representative of the other plastic mains included in the account.

We find that the average service life currently applied to plastic mains can be retained for now. Absent the mortality data that would normally be used to adjust the service life of the assets included in this account, it would be premature to use any preliminary indications from an early vintage of plastic mains that may not be representative of the other vintages and more recently installed plastic mains.

4. Meter [*41] and House Regulator Installations

DPS Staff proposed that the service lives for meters and regulators also be used for meters and regulator installations. In the case of meters, Staff would re-set the 52-year service life for installations at the 36-year service life being used for the meters. As to the house regulator installations, the 52-year service life would be re-set at 30 years. The administrative law judge considered the Staff proposal rational and he recommended it.

In its brief on exceptions, NFG asserts that its experience supports the use of the same service life for all installations. It also explains that reasons exist for meters and house regulators to be replaced in advance of the associated service installation.

In response, DPS Staff states that NFG has provided no data supporting its conclusion that the same service life should apply to service installations, meter installations and house-regulator installations. Instead, Staff continues to support the use of the same services lives for installation costs and the associated equipment.

We find that NFG has not provided sufficient support for the installation service lives examined by Staff that were determined [*42] to be too long. The Staff proposal to apply the same service lives to the meters and regulators, and the installations, does not appear to be unreasonable or inaccurate from the information we have been asked to examine. Accordingly, NFG's exception is denied.

RATE BASE

Pension Payments

1. NFG Exception

Since 2002, NFG has placed funds in its external trust for employee pensions that have exceeded the amount included in rates. For this reason, NFG has proposed to include in rate base about $ 28.8 million, to allow the Company to earn a return on the additional pension trust funds. The administrative law judge accepted DPS Staff's proposal to exclude the payments from rate base. [10] As Staff proposed, the judge recommends that NFG use the available Cost Mitigation Reserve funds and the $ 16.1 million pension expense allowance currently built into rates to reduce the internal pension debit balance that gave rise to the Company's proposal to increase rate base by $ 28.8 million.

[*43]

In its brief on exceptions, NFG continues to assert that its funding of the external trust was entirely justified by an actuary's declaration that the trust was under-funded in 2002. According to the Company, the additional payments were both reasonable and necessary in the circumstances prevailing at the time they were made. The Company also observes that the additional payments have had the effect of reducing the need for ratepayer pension contributions by over $ 5.2 million a year. For these reasons, the Company believes that the internal pension debit balance of $ 28.8 million should receive rate base treatment.

The Company also claims that the applicable policy statement permits pension payments in excess of the established rate allowance and it provides assurances that the excess payments will either receive rate base treatment or they will accrue interest. [11] NFG states that it has not departed from the policy statement's guidance and asserts that its rate base request fully complies with the policy statement's requirements.

[*44]

According to the Company, the circumstances here present a textbook case for allowing rate base treatment. The payments to the external pension trust reduced the Company's earnings in the years they were made, thus proving that they were necessary to avert a crisis. Also, by achieving a $ 5.2 million reduction in revenue requirements, NFG states that ratepayers would continue to enjoy a $ 2.3 million reduction if its rate base increase proposal is adopted. [12]

Responding to Staff's proposal to use the $ 16.1 million currently allowed in rates to reduce the internal reserve pension balance, NFG states that it is perplexed because the proposal does not consider the finances of the pension trust or the potential effect on future pension expense. According to the Company, it plans to use $ 5.9 million of its current rate allowance to reduce the debit balance annually and to eliminate the pension balance **[*45]** over time. It also plans to continue to fund the pension at a modest level and thereby balance these interests.

Also, contrary to the administrative law judge's understanding of how pension trust matters were handled since 2002, NFG states that the rate case settlement adopted in September 2003 provided it an increased amount for pension expenses. [13]

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[10] The judge incorrectly identified the final amount the Company proposed to include in rate base. Initially, NFG sought $ 37.6 million but it later corrected it to $ 28.8 million.

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[11] Case 91-M-0890, Statement of Policy and Order Concerning the Accounting and Ratemaking for Pensions and Post-Retirement Benefits Other than Pensions (issued September 7, 1993).

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[12] The inclusion of $ 21.1 million in rate base, as NFG has proposed, would increase rates by about $ 2.8 million.

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[13] Case 00-G-1858, National Fuel Gas Distribution Corporation - Gas Rates, Order Establishing Rate and Restructuring Plans (issued September 18, 2003), p. 7.

It also points out that the rate settlement adopted in July 2005 allowed the Company to accrue interest on the internal pension reserve at a pre-tax rate of return of 11.31% in lieu of NFG's request for rate base treatment in that case. [14]

NFG believes there is no good reason for denying it rate base treatment or carrying [*46] costs for the additional amount it paid into the external trust for pension benefits. Such action, according to it, would be punitive. Also, according to the Company, fundamental fairness requires that it earn interest on the debit balance at the same, pre-tax rate of return that would apply to a credit balance were payments to be provided to ratepayers. Thus, it objects to any use of a short-term interest rate as the judge has recommended.

2. Staff's Exception

Staff also addresses the judge's recommendations in its brief on exceptions. It claims that NFG did not adhere to the policy statement and it is not entitled to earn a return on the excess payments made to the external trust fund. Rather than rely on an actuary's recommendation, Staff believes that the external pension fund's tax status should determine the need for any additional funding that would receive either rate base treatment or accrue interest. In this instance, Staff insists the additional funding was not needed to permit the fund to maintain its tax effective status. In Staff's view, there was never any need to fund the trust above the amount provided in rates and there is no reason to provide NFG either interest [*47] or rate base treatment for the additional payments.

Staff takes exception to the judge's recommendation to use a short-term interest rate if any interest accrual is provided to NFG. Staff also faults the Company for not addressing the $ 4.5 million interest accrual on the funding of the external pension reserve above the amount provided in rates. For not addressing this item, Staff believes that NFG should be precluded from recovering it.

3. Discussion and Conclusion

Based on the record before us, we conclude that NFG should be allowed to earn a return on the net of tax balance of the pension internal reserve commensurate with that obtained by ratepayers on the funds invested by NFG in the external employee pension trust(s). Specifically, NFG will be allowed to accrue a non-cash return on the internal reserve debit balance at a rate equal to the actuarial assumed long run return on pension plan assets. [15] However, the internal reserve balance subject to this carrying charge accrual should be reduced by any portion of the balance which causes the plan assets to be in excess of the projected benefit obligation. This is appropriate because ratepayers should not be required to support [*48] funding of plan assets in excess of the plan's obligation.

Absent unforeseen intervening circumstances, we expect that over time NFG should be able to manage the funding of its employee pension plan such that the debit balance in the pension internal reserve can be eliminated, which would end the need for this accrual. This can be accomplished by the retention by NFG of the increased rate allowance provided for pensions to be included in rates and the recovery of the deferred pension costs from the Cost Mitigation Reserve.

Further, we agree with the administrative law judge:

> . . . it would have clearly been preferable for NFG to have petitioned the Commission for authorization at the time it took its action if for no other reason than to avoid the difficult [*49] issue it has presented here by now seeking

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[14] Case 04-G-1047, National Fuel Gas Distribution Corporation - Gas Rates, Order Establishing Rates and Terms of Two Year Rate Plan (issued July 22, 2005) Joint Proposal, p. 11.

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[15] For purposes of this decision, "actual return on plan assets" or the "actuarial assumed long run return on pension plan assets" are defined as they are defined in Financial Accounting Standards Board (FASB) Statement No. 87, Employers' Accounting for Pensions.

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Commission approval for actions that were taken between 2002 and 2005. [16]

Also, the decision we reach here is based on the facts and circumstances presented to us here. Thus, it should not be considered applicable by any other jurisdictional company absent express Commission permission.

Materials and Supplies

The administrative law judge accepted DPS Staff's calculation of the amount of materials and supplies to include in rate base. Staff used a recent twelve-month average to project a rate year amount that was $ 379,000 less than the Company's figure.

In its brief on exceptions, NFG asserts that its material and supply costs have increased from $ 3.3 million in 2000 to about $ 5.7 million in 2007. It acknowledges that the material and supply balance fell to $ 5 million in mid-2006; however, it notes that it recently reached almost $ 6 million. Given this activity over the years, NFG does not believe that the judge should have [*50] used a one-year trend to set the materials and supply balance for the rate year. To be consistent with his recommendation concerning property taxes, the Company believes that the judge should have accepted an amount for material and supplies that is more consistent with the long-term historical results.

In response, Staff states that the current trend shows a decline in the material and supplies inventory that should be factored into the estimate used for the 2008 rate year.

We find that the results for the historic base period provide a proper basis for projecting the amount for the upcoming rate year. The base period amount will neither be decreased nor will it be inflated for ratemaking purposes, given the historical variations and the trends shown for this item. Accordingly, NFG's exception is denied.

COST OF CAPITAL

Capital Structure

The administrative law judge recommended that the equity component of NFG's capital structure be set at 47.25%, the mid-point of the range for firms that have a business profile score of ″4″ and a split bond rating (BBB+/A-). NFG and Staff have filed exceptions.

NFG continues to support a ″hypothetical″ 51.5% equity ratio that is less than [*51] the 53.9% consolidated equity ratio of its parent company. NFG's hypothetical equity ratio was developed for an ″A-″ rated firm with a ″4″ business rating. Staff disagrees with the ″4″ business rating. It supports the use of a ″3″ rating which it believes is a better fit to NFG's operations and provides an equity ratio no higher than 44.35%.

Multiple Intervenors considers NFG's proposed 51.5% equity ratio to be excessive. It believes that DPS Staff correctly used a split bond rating and properly set NFG's business profile at ″3.″ For these reasons, Multiple Intervenors would support a capital structure no higher than the one the judge has recommended and sees merit in using the equity ratio advocated by DPS Staff.

1. Business Profile

Standard & Poor's provides business profile scores between ″1″ and ″10″ to indicate a firm's business risk. A ″1″ indicates a low amount of risk; a ″10″ indicates substantial risk. The National Fuel Gas Company has a score of ″7,″ indicating that its business risk is moderate. As a wholly-owned subsidiary, NFG does not have a Standard & Poor's rating of its own. Instead, the expert witnesses who testified in this case provided their professional opinions [*52] as to the score NFG would be apt to receive.

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[16] Recommended Decision, p. 49.

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Staff believes that NFG would qualify for a score of ″3.″ Pointing to the April 27, 2007 edition of Standard & Poor's *U.S. Utility and Power Ranking List,* DPS Staff notes that a ″2.9″ is the average business profile score for 24 transmission and distribution utilities with a split bond rating. Only 3 of 16 companies with an ″A-″ rating had a ″4″ profile score; 13 had scores ranging from ″1″ to ″3.″ Examining utility companies with ″BBB″ ratings, Staff observes that 23 transmission and distribution companies had an average score of ″3.65.″

Comparing NFG to other utility companies in New York, DPS Staff points out that KeySpan scored a ″1,″ Consolidated Edison (including Orange and Rockland) scored a ″2,″ and Central Hudson and Niagara Mohawk each scored a ″3.″ In addition, Staff points out that only 10% of all transmission and distribution companies have a business profile score of ″4.″

From this information, Staff concludes that it is logical to apply to NFG a business profile score no greater than a ″3.″ It observes, as well, that NFG's weather normalization clause, and the revenue decoupling mechanism that will begin in 2008, will **[*53]** only serve to reduce the Company's business risk.

On the other hand, NFG considers a score of ″4″ conservatively appropriate for it. It claims that Staff's ″3″ is based on speculation and an interpolation, and it disagrees with using water companies to measure the business risk of a gas distribution company.

Addressing its business risks, NFG states that its market is saturated and the Company enjoys few opportunities for growth. According to it, most other gas distribution firms have ample growth opportunities and the potential to convert customers from other fuels. Thus, it believes that its business position is weaker than that of the other gas companies in the State.

In comparison to electric companies, NFG observes that the electric industry is experiencing growth as measured by usage per customer. In contrast, the economic condition of its service area is in decline and residential and small commercial customers are using less. For this reason, the Company believes that it has greater business risks than other companies in the State. It notes that the downstate region has greater prosperity and better opportunities for revenue growth.

NFG also believes that its business score **[*54]** should be derived from the parent company's ″7.″ According to its witness, in instances where a parent firm and the subsidiaries have rated debt and the parent has a business profile score of ″7,″ the utility subsidiaries have business profile scores, on average, of ″4.4.″ On this basis, NFG considers a score of ″4″ to be conservative.

2. Bond Rating

According to NFG, a split bond rating should not be used to establish its hypothetical capital structure. On a stand-alone basis, the Company's expert witness believes that NFG would likely have a bond rating of ″A-.″ For a firm with an ″A-″ bond rating and a business profile of ″4,″ he determined that the equity ratio should be in the range of 48% to 55%.

In support of its position, NFG points out that the Commission has, since the time of the Generic Finance Case, generally supported an ″A″ bond rating for New York utility companies. [17] NFG also states that there are no ″split ratings″ in the analysis that Staff applied to it. According to the Company, all of the companies that Staff studied are rated either ″A-″ or ″BBB+.″ Further, the Company observes that, in its last rate proceeding, DPS Staff applied an ″A-″ rating to it and **[*55]** it claims that nothing has changed since then.

If its hypothetical equity ratio is rejected, NFG believes that the parent company's ″A″ bond rating and its 53.9% equity ratio should be used for ratemaking purposes in this case.

3. Discussion and Conclusion

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[17] Case 91-M-0509, Generic Finance Proceeding, Recommended Decision (issued July 19, 1994). The Commission never rendered a final decision in this proceeding; however, it has repeatedly used the results of this proceeding to set allowed returns for utility companies in New York.

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We typically develop the capital structure for utility subsidiaries of holding company parents by first developing the consolidated capital structure of the parent, and then removing any capital associated with more risky competitive operations at an equity ratio consistent with our view that regulated transmission and distribution utilities are less risky than competitive ventures. Because the parent company's bond rating has a substantial influence on the credit rating of all [*56] of the entities within the holding company, it follows that the competitive operations should provide just as much support for the holding company's rating as the utility subsidiaries. Given the higher risks of competitive operations, they must be removed from the consolidated capital structure at an equity ratio higher than the equity ratio present in the consolidated structure. This is because the consolidated equity ratio reflects a blend of the higher equity ratio required for the more risky competitive operations and the lower equity ratio required for less risky utility operations.

In this case, neither party employed our traditional approach. NFG instead relied on a hypothetical equity ratio based upon Standard & Poor's business profiles. [18] While Staff followed a similar approach, it did provide a backup calculation on the record showing the effects of our typical methodology.

[*57]

Staff showed that the median debt ratio for industrial companies rated ″A″ and ″BBB″ by S&P is 40%. [19] Barring evidence to the contrary, removal of the competitive subsidiaries from the consolidated parent capital structure at a 60% equity ratio would be our normal approach. Here, however, Staff used this approach as a check which indicated an equity ratio of 41.63% for NFG's distribution operation.

Aside from Staff's back-up calculation which used our typical approach, the parties presented and argued the equity ratio issue largely based upon the hypothetical business profile ranking of NFG, a ranking that cannot be observed directly, due to the lack of a stand alone bond rating. Here, Staff and the Company not only argue for different business profile rankings but also different bond rating objectives for NFG. The Company argues that an equity ratio should be employed based upon an ″A-″ rating target and a business profile score of ″4.″ Staff targets a bond rating in the ″BBB+″ [*58] to ″A-″ range and a business profile score at ″3.″

In this case, while NFG does not have a specific bond rating, National Fuel Gas Company, the consolidated holding company, has a Standard & Poor's bond rating of ″BBB+.″ The holding company is also the entity that raises money in the financial markets for NFG. Thus, NFG's cost of debt and ability to access the capital markets is linked directly to the financial standing and bond rating of its holding company parent. Given that fact, we must determine NFG's fair burden for supporting the financial standing of a diversified energy company.

We do not find NFG's bond rating target reasonable. At the outset, we note that NFG, in spite of its argument for an ″A-″ rating did not adjust its actual ″BBB+″ debt costs downward in the capital structure to reflect the higher ratings target. Thus, the Company's methodology would have ratepayers pay a higher overall pre-tax return on the equity component of the cost of capital in order to support an improved bond rating while receiving no benefits in the form of a reduction in the cost of debt or increased access to capital. By having utility ratepayers support a bond rating higher than the actual [*59] overall corporate rating, there is the potential for ratepayers to provide a disproportionately higher amount of financial support for NFG's financial standing than its other operations.

On this record, we find Staff's position supporting an equity ratio of 44.35% based upon a business profile of ″3″ to be more compelling than the Company's argument for a business profile score of ″4.″ The business profile score of the

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[18] Standard & Poor's assigns utilities business profile ranging from of 1 (excellent) to 10 (vulnerable). The lower the profile score, the less risk a firm has. The business profile scores are based upon Standard & Poor's assessment of the qualitative business and operating characteristics of the utility.

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[19] Ex. 52, Schedule 9, page 2 of 3.

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distribution arm of NFG seems best estimated based upon other distribution company business profiles. The Company's argument, to base the business profile upon the observed business profiles of distribution companies associated with high business risk holding companies, is not a persuasive comparison. Staff's business profile ranking of "3" is already at the higher end of the risk range for distribution companies and, as such, gives sufficient weight to limited growth opportunities in NFG's service territory.

We also note that the Company criticized Staff's equity/debt allocation of 60%/40% for competitive subsidiaries based upon evidence suggesting that the S&P 500 Industrial Companies have an average equity/debt mix of 40%/60%. This perspective, however, does not [*60] address a key element of our approach. It is not our intent to remove competitive operations at average competitive company capitalization ratios. We are removing competitive operations at ratios that would support the parent's rating at the level that it currently has. The Company's suggestion that competitive operations should be removed at a 40%/60% equity/debt mix is therefore antithetical.

Likewise, we see little relevance in the Company's reference to the Staff observation in a prior case that NFG's operations would support a higher rating if it were a stand-alone entity. NFG is not a stand-alone entity and the rating agencies look to the consolidated holding company when assessing NFG's credit quality.

Finally, we note that Staff's proposed equity ratio of 44.35% implies an equity ratio of 58.6% for NFG's non-regulated operations, which is not excessive. Thus, we will set rates here using an equity ratio of 44.35%.

Return on Equity

1. The Super Proxy Group The administrative law judge recommends that we use a proxy group composed of Staff's proxy group of 13 companies and of the Company's proxy group of seven companies. In its brief opposing exceptions, Staff stated [*61] that it neither opposed the judge's super proxy group nor did it see any need to select companies for inclusion in the group based on their DCF-derived cost of equity. Staff considers the Commission's methodology to be capable of appropriate modifications to address the risk differences between the proxy group and NFG. Staff's proxy group contains 13 gas and electric transmission and distribution companies with regulated revenues of 86% or more.

The Company has opposed the super proxy group on the basis that the Generic Finance Proceeding supported a methodology that uses only a gas proxy group for gas utility companies and an electric proxy group for electric utilities. NFG also maintains that the judge's super proxy group includes unreliable DCF results. The Company presented two proxy groups, one composed of six companies and another composed of seven companies that only contained natural gas companies with substantial amounts of gas revenues.

2. Generic Financing Proceeding Approach

The administrative law judge recommends that we depart from the standard practice used in rate proceedings since the time of the Generic Finance Proceeding. In litigated rate cases, and in many [*62] joint proposals and multiple year rate plans, the general practice has been to use the results of a two-thirds weighting applied to the Discounted Cash Flow (DCF) Method and a one-third weighting to the Capital Asset Pricing Model (CAPM) Method to determine the allowed rate of return for the utility company. In this case, the judge has recommended an equal weighting of the two methods which indicated an allowed equity return of 9.4%. DPS Staff, CPB, Multiple Intervenors and NFG except to the judge's recommendation.

DPS Staff urges us to adhere to the approach that emerged from the Generic Finance Proceeding. According to it, this framework has served well for setting the allowed return for the major gas and electric utilities and Staff believes no other approach is better. Staff does not believe that any new policy or practice need be established. However, before any such change is made, it believes that all interested persons should be heard, including persons who did not participate in the NFG rate proceeding. Staff also states that utility betas have increased significantly over the past four years, largely due to their non-regulated businesses. Staff states further that, as the [*63] result of the higher betas, the CAPM Method estimate exceeds the requirement for the utilities' regulated businesses and, therefore, the CAPM Method should receive an even lower weighting relative to the DCF Method.

Addressing the judge's concerns about the use of the DCF method when market prices and book values do not coincide, Staff maintains that the market values are irrelevant. According to Staff, market prices in excess of book value would only matter if we were to allow earnings on a market value investment base instead of the Company's book value. Staff states that earnings set on book value provide shareholders a proper opportunity for a fair return.

Like Staff, CPB supports the standard approach that applies two-thirds weight to the DCF Method and one-third to the CAPM Method. CPB states that NFG has provided nothing new or compelling in this case to justify a departure from the established approach. It notes that the Generic Finance Proceeding considered the fundamental workings of the DCF method and no flaw was identified in the method when market prices and book values do not coincide. CPB also insists that the current market conditions are not new. Throughout a recent [*64] five-year period, the average market values for the companies in the proxy groups have generally exceeded their book values. And, before now, the Commission has not seen any need or good reason to depart from the Generic Finance Proceeding approach.

Similarly, Multiple Intervenors doubts that there is a true need or rational basis for departing from the Generic Finance Case framework. It notes that this approach has been upheld in another, recently litigated rate proceeding and there have not been any departures from it in a long line of rate proceedings. Also, instead of asking Staff to justify the continued use of the DCF method in times when market prices and book values are disparate, Multiple Intervenors believes that NFG should be required to demonstrate that a dramatic change has occurred to warrant a departure from the Generic Finance Case approach. To maintain certainty and a predictable approach for future rate proceedings, and to discourage litigation on rate of return methodology issues in other rate cases, Multiple Intervenors believes we should use this opportunity to reaffirm the acceptability of a two-thirds/one-third weighting of the DCF and CAPM methods, respectively. [*65]

According to NFG, the results of the Generic Finance Case support the use of an equal weighting of the DCF and the CAPM approach as much as they support the two-thirds/one-third approach that the other parties favor. Without a Commission decision in the Generic Finance Case, NFG believes that an equal weighting is just as viable. Also, according to the Company, the Commission need not wait for a generic policy case to apply to it an equal weighting of the DCF and the CAPM methods.

Addressing the amount of weight to be given to the DCF method, NFG states it was acknowledged in the Generic Finance Case that the DCF approach tends to produce returns higher than necessary when stocks are selling below book value and lower than necessary when stocks are selling above book value. The Company also states that at the time of the Generic Finance Case the proxy group favored by DPS Staff had a market-to-book ratio of 136% that has grown to 180% in 2006. For this reason, the Company believes that the DCF method currently understates its cost of equity.

3. <u>Revenue Decoupling Mechanism Adjustment</u>

The administrative law judge recommended against an explicit adjustment to the allowed return [*66] on equity to account for the introduction of a revenue decoupling mechanism. DPS Staff, Multiple Intervenors and CPB support a 25 basis point reduction to the allowed rate of return because the revenue decoupling mechanism is expected to reduce NFG's business risk and provide it greater ability to collect the amount of revenues it has forecast.

NFG is opposed to the proposed adjustment because such mechanisms are common among gas distribution companies. Their use by the natural gas utility companies has long been considered by investors and has been factored into the financial market data for these firms. The Company objects to any comparison made to the electric transmission and distribution companies that do not currently use such mechanisms.

4. <u>Discussion and Conclusion</u>

While the parties' controversy over the composition of the proxy group does not appear to have influenced the indicated results, we are not inclined to use any different proxy group than the one presented by Staff. Staff has focused on companies that are considered regulated utilities by Standard and Poor's. The Company's proxy groups contained diversified gas companies, which may be more comparable in risk to [*67] the consolidated holding company operation. Here, we are setting rates for a regulated gas distribution business. Therefore, for purposes of setting a fair return for the regulated utility,

we find that Staff's proxy group is best.

We also agree with Staff, CPB and Multiple Intervenors that the Company has not provided any compelling reasons to provide equal weight to the DCF and the CAPM methods. Moreover, the Company's attempt to cull outliers from the proxy group for its DCF analysis biases the results and is contrary to using a proxy group method. Further, as Staff points out, the betas of many of the companies have increased, perhaps the result of diversification into non-regulated businesses, adding an element of bias to the CAPM Method. Since that concern was not resolved by the Company, we cannot increase the weight of the CAPM Method in determining a fair return on equity. Accordingly, we will continue to use the two-thirds DCF Method and one-third CAPM Method weighting in this case. On this basis, we arrive at a cost of equity of 9.20% for NFG.

The 9.20% cost of equity is based on Staff's proxy group analysis recommendation of 9.10% composed of two-thirds the median DCF [*68] result of 8.38% and one-third the average CAPM result of 10.58%. The 10.58% is the average of a traditional CAPM result of 10.54% and a zero beta CAPM result of 10.63%. Using the most recent (month-end October 2007) six-month average of monthly 10-year and 30-year treasury yields, we have updated the 9.10% cost of equity to 9.20%.

Turning to the adjustment proposed for the revenue decoupling mechanism, Staff states that the Company proposed a 25 basis point adjustment. However, Staff applied it to the Company's proxy group of gas utility companies. After adjusting for NFG's weather normalization adjustment, the Company recommended that, if we did not adopt a conservation incentive program and revenue decoupling mechanism, its return on equity should be increased by 10 basis points since most of the companies in its proxy group had such mechanisms.

Given that the revenue decoupling mechanism we are adopting may reduce NFG's earnings volatility, that most of the companies in Staff's proxy group do not have revenue decoupling mechanisms, and that the effects of revenue decoupling mechanisms have long been considered by investors and factored into the financial market data for natural [*69] gas firms, we will apply a 10 basis points reduction to NFG's 9.20% cost of equity and will set its allowed return on equity at 9.10%.

In sum, the following are the capital structure and cost rates we are using in this case.

Commission Rate of Return YE 12/31/08

	Ratios	**Cost**	**Weighted Cost**
Long Term Debt	45.54%	6.57%	2.99%
Short Term Debt	9.32%	5.98%	0.56%
Customer Deposit	0.79%	3.76%	0.03%
Common Equity	44.35%	9.10%	4.04%
	100.00%		7.61%

Performance Incentives

In NFG's last rate proceeding, and in the settled rate cases before it, the Company agreed to and accepted the performance standards and monetary incentives that were used to promote system safety and customer service. This rate case has been litigated and the parties have not provided any joint proposals for safety and service standards during the 2008 rate year. Instead, DPS Staff has proposed the standards it believes should apply during the rate year based on the Company's past performance, current capabilities and existing capital budget. Staff has also proposed adjustments to the Company's return for failure to meet those standards. The Company has opposed Staff's standards [*70] and its proposed return adjustments, and any other standards and monetary incentives and alleged ″penalties″ that would be implemented without its consent.

The administrative law judge recommends that we continue to apply system safety and customer service performance standards to NFG and that we use the performance standards for the rate year suggested by DPS Staff. With respect to the proposed return adjustments, the judge recommends that we wait to see if the Company satisfies the rate year standards

or fails to meet them. In the event the Company misses any of them, the judge would have us consider at that time, and not before, the appropriate remedy. Exceptions have been filed by NFG and DPS Staff.

On exceptions, NFG recites its reasons for opposing the performance standards and monetary incentives/adjustments. It claims that the standards vary from company to company without any rational basis in violation of the Public Service Law. It also asserts that the standards have no basis in law or regulation, or an objective basis from which they can be derived.

As to the safety standards, NFG asserts they do not advance safety and they may have a perverse effect if they required the [*71] Company to replace otherwise acceptable mains solely to avoid penalty payments. In the case of the service standards, NFG questions why it should be penalized for not meeting a target when its performance remains superior to the service provided by any other utility company in the State. According to the Company, the safety and the customer service standards lack objective measures, except for the leak emergency response times where NFG already excels. It asserts that, if the Staff proposals were advanced to address some deficiency, then it would work with Staff to remedy that deficiency, and accuses Staff of not identifying any safety or service problems requiring the imposition of standards. The Company also believes that the proposed standards violate equal protection requirements by applying different standards to different companies.

NFG points to the Public Service Law and states that it contains no express provisions granting the Commission authority to assess penalties for service and safety standard violations. The Company contends that, while termed ″incentives,″ it is clear that the staff proposals are penalties. It asserts that the Public Service Law does not permit the [*72] Commission to assess fines and requires it to bring any penalty action in court. According to NFG, the Staff proposed safety and service standards do not provide any positive or desirable incentive; they merely attempt to levy fines and collect penalties that are beyond the Commission's authority. The Company further claims that it is required to challenge the standards at the time they are adopted and cannot wait for a penalty.

In its brief on exceptions, Staff clarifies that the safety standards it has proposed contain changes from the standards that were included in the joint proposal that the parties previously endorsed. Staff's proposed service standards are the same ones that NFG previously endorsed. Staff also notes that it would expect any safety and service standards that the Commission adopts in this case to remain in effect beyond the rate year until the Commission expressly addresses them in another proceeding.

In response to NFG, Staff asserts that the Public Service Law provides the Commission ample authority to mandate the provision of safe and reliable service at just and reasonable rates. It contends that the Commission has approved the use of incentives in the past. [*73] Staff also highlights the Commission's authority to encourage the formulation and execution of long-run programs for the performance of public service responsibilities with economy, efficiency and care for public safety, and the Commission's power to order utility companies to make reasonable improvements that promote the public interest, preserve the public health and protect the natural gas consuming public. From its examination of the Public Service Law, Staff does not doubt that the Commission has broad and sufficient authority to adopt the safety and service standards it has proposed in this case.

Addressing NFG's equal protection claims, Staff asserts that it is reasonable and rational for the Commission to set different targets and values for individual utility companies on the basis of their past performance, their current operating conditions and their particular circumstances, and the Commission has so implicitly found. Staff contends, however, that a consistent methodology was used to develop different safety standards for different utilities. It also asserts that the proper time to challenge the safety standards is when a utility company failure to meet them results in [*74] monetary consequences.

As to the Company's assertion that the safety standards make little, if any, sense in an instance where they would require well-functioning bare steel mains to be replaced, Staff denies that it has proposed any such replacements. Staff states that it favors the continued use of NFG's risk-based model that prioritizes the replacement of leak-prone mains and does not require the use of any particular type of pipe.

NFG's position that we should simply abandon the use of safety and service targets and incentives is untenable and unacceptable. This approach to safety and service quality is both practical and a proper use of Commission authority to

ensure that safe and reliable service is maintained by the utility company as the foremost aspect of its responsibilities to the public. We have authority to reduce rates of return to reflect poor service quality. We have approved incentive programs in the context of accepting multi-year rate plans as ″just and reasonable.″ We can index portions of the Company's return for the rate year in this case to achievement of key measures of safety and service quality. Contrary to the Company's claims, linkage of rates of return [*75] to fully achievable levels of acceptable performance is not a ″penalty,″ but a lawful exercise of our authority to set ″just and reasonable″ rates.

We find that the safety and service standards DPS Staff has proposed in this case are consistent with the standards most recently adopted and applied to NFG and that they are needed to serve the public interest. The safety standards have been set based on NFG's historic experience in such a way as to allow the Company to practically and economically meet them, and thereby strive to achieve its allowed return, without threatening previously reached levels of safety and service quality. The standards, therefore, provide a reasonable basis for possible return adjustments.

The Company errs when it claims that we have arbitrarily distinguished between utilities, or violated equal protection requirements, with respect to the standards developed. We have consistently attempted to develop standards across the State that address the need to ensure that safety and service do not decline as a result of ratemaking methods that may not give utilities sufficient incentives to invest in new facilities. As Staff argues, different standards can be justified [*76] for utilities with different past performances and current circumstances. For instance, even though NFG will have to replace more miles of main than KeySpan, the standards for that utility reflect the need to avoid a rate impact for that company, but do accomplish a doubling of its historic level.

Accordingly, we are adopting Staff's standards as those to which NFG will be held during the rate year and until they are revisited in the Company's next major rate proceeding. The Company will be required to report on whether it has met the safety and service standards during the course of the rate year and document its compliance. If it has not met a standard, we will then require it to show cause as to why its earnings for the rate year should not be reduced to reflect its non-compliance with the standards during the rate year. With respect to the proposed return adjustments, we modify the judge's recommendation that we see if the Company satisfies the rate year standards before we determine the level of any adjustment for the rate year. In the event the Company fails to meet any of the standards, NFG will be afforded an opportunity to show cause why Staff's particular proposed return [*77] adjustments should not be imposed.

CONSERVATION INCENTIVE PROGRAM COSTS

In September 2007, we approved a NFG Conservation Incentive Program for the 2007-08 winter heating season. [20] The program encourages customers to implement energy efficiency measures and reduce their consumption of natural gas. Rebates are provided for the purchase of energy efficient furnaces, hot water heaters and set-back thermostats. Low-income customers can receive energy audits of their homes and assistance in implementing energy saving and cost-efficient devices.

In recognition of the $ 10.8 million NFG is receiving for the Conservation Incentive Program (CIP), which includes an amount to promote the program, DPS Staff proposed a $ 360,000 downward adjustment to the Company's general budget for outreach and education. The administrative law judge adopted Staff's proposed adjustment, but he misstated the amount. The calculation of the Company's [*78] revenue requirements contains the correct amount for this adjustment.

The administrative law judge also recommended that large-use transportation service customers not be required to pay the CIP costs presented in this case; instead, he recommended that this matter be specifically considered and resolved in our proceeding concerning an energy efficiency portfolio. [21] NFG, DPS Staff and CPB except to this recommendation.

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[20] Case 07-G-0141, Order Adopting Conservation Incentive Program (issued September 20, 2007).

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[21] Case 07-M-0548, Energy Efficiency Portfolio Standard, Order Instituting Proceeding (issued May 16, 2007).

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According to the Company, the record here is sufficient for the Commission to decide that CIP costs should be collected from large-volume commercial and industrial customers. NFG believes that these customers have much to gain from the application of effective conservation measures to other customer classes because of the large amounts of natural gas they consume. It states that the large customers achieve the highest return from investments in energy conservation programs and they stand [*79] to gain even more, if they are relieved from the costs for the efforts and expenditures applied to other customer classes. NFG proposes that the CIP cost recovery mechanism apply to all customers pending consideration of the proposed exemption for large volume customers that has been presented in the Energy Efficiency Portfolio Standard Proceeding.

Also in support of applying a CIP charge to large industrial and commercial customers, DPS Staff asserts that these customers enjoy societal benefits from energy efficiency. It states that air quality improvements will promote good health, reduce employee sick time, and reduce pressure on health care costs.

CPB agrees with the administrative law judge that this issue should be decided in the Energy Efficiency Portfolio Proceeding and it believes that this matter should be resolved in advance of the 2008-09 winter heating season. Pending the resolution of this issue, CPB believes that no determination should be made in this case concerning the large industrial and commercial customers' responsibility for the CIP costs that are subject to deferral accounting and will be collected in the future.

In response to the other parties, Multiple Intervenors [*80] insists that the large transportation customers that are ineligible to participate in NFG's Conservation Incentive Program should not pay for the cost of this program that does not apply to them. Multiple Intervenors is aware that energy efficiency programs are being considered in the Energy Efficiency Portfolio Proceeding and that the parties plan to meet in 2008 to consider the energy efficiency program that NFG will implement for the 2008-09 program year. To the extent that the upcoming efficiency programs are targeted to large, non-residential customers, Multiple Intervenors believes that the customer classes should pay for the programs that are directed to them. Multiple Intervenors also states general support for the efforts being conducted in the Energy Efficiency Portfolio Proceeding where it believes the interests of large, non-residential customers can be addressed.

In this case, Multiple Intervenors is opposed to paying the NFG CIP costs because the program does not provide large non-residential customers any benefits they have not already achieved themselves by implementing energy efficiency projects. Multiple Intervenors disagrees with the CPB proposal to put off a decision [*81] concerning the recovery of the $ 10.8 million of NFG CIP costs for the 2007-08 program year. According to Multiple Intervenors, the Commission should provide in its rate case determination the guidance the Company requires to allocate the 2007-08 program costs and recover them.

We find that the most constructive approach for eliciting the support and cooperation of large, non-residential customers in the utility company programs that are needed to achieve the desired amount of energy efficiency will be for us to address this matter fully in Case 07-M-0548. The actions we have taken in this NFG rate proceeding have neither been comprehensive nor have they been specifically directed to the customer classes represented by Multiple Intervenors. By the time an energy efficiency program is set for NFG's 2008-09 program year, our actions and requirements for large commercial and industrial customers will be set and known. For purposes of resolving the limited revenue requirement allocation and rate design issues presented in this rate proceeding, the surcharge that will be used to collect the 2007-08 CIP costs will only apply to the class of customers who can participate in the program this [*82] year.

<u>RATE DESIGN</u>

<u>Minimum Bill Increase</u>

The administrative law judge has recommended that we allow NFG to increase the minimum bill for residential and general service customers by $ 2.00. The current minimum is $ 13.54.

In its brief on exceptions, NFG continues to propose a $ 20.00 minimum bill which, it states, is supported by the cost of service study it performed. It points out that even the cost of service results that DPS Staff would use support a $ 19.12

minimum bill. The Company believes that the judge should not have ignored the cost of service data and he should have moved closer to the price level they support.

Addressing the type of customers who are most affected by a minimum bill increase, NFG denies that a large increase in the minimum bill would burden cooking-only customers. The Company states that the low-volume customers in its service area are primarily vacation property owners with seasonal dwellings. According to NFG, the low-income customers in its service area tend to consume above-average amounts of gas and they would benefit by shifting costs from the tail block rates to the minimum charge.

According to Staff, a $ 2.00 increase in the minimum bill [*83] is acceptable and the Company's volumetric rates may have to be decreased to achieve the level of revenue requirements that the Commission sets in this case.

We find that a $ 2.00 increase in the minimum bills applicable to residential and general service customers is warranted given the overall revenue requirement results we are adopting in this case. At the revenue requirement levels we find supported, it is not desirable to make any greater change to the minimum bill than the one the administrative law judge has recommended. In NFG's next rate proceeding, we will again examine the minimum bill amounts and consider whether any additional, gradual modifications are sufficiently justified at that time on the basis of the customer costs the Company incurs.

The ″No Harm, No Foul″ Rule

Transportation service customers are required to keep their daily deliveries within 10% of the amount of gas they use. Amounts below 90% and above 110% of the daily delivery targets are cashed out. The Company either sells the customer the additional gas it needs or buys from it the excess gas delivered to the system. If the entire customer class remains within the tolerance band on a given day, [*84] no customers are subject to the cash out requirements. This is know as the ″no harm, no foul″ rule. DPS Staff and Multiple Intervenors believe that the current practice requires no changes. NFG and CPB believe that the rule can operate unfairly and it should be dropped.

Some transportation service customers, whose deliveries are relatively small in comparison to other customers in the service class, have been able to be substantially outside of the tolerance bands with impunity. The ″no harm, no foul″ rule has worked to their advantage and they may have little reason to keep to the daily delivery requirements. For this reason, NFG and CPB proposed that all customers be individually responsible for their daily gas deliveries and that the rule be discarded.

The administrative law judge made a proposal of his own and suggested the rule be retained and applied to separate groups of large and small volume transportation customers. All four parties take exception to the judge's proposal. They consider the judge's proposal too cumbersome for practical use. Each party continues to support its original position for the reasons stated in their respective briefs to the judge.

We find that the [*85] ″no harm, no foul″ should be retained. We are unaware of any good reason to deprive those customers who are making good faith and useful efforts to manage their daily deliveries from the advantages that the ″no harm, no foul″ rule provides them. It is entirely equitable to allow such customers to have their gas amounts exceeding the tolerances to be offset by any compensating amounts provided by other transportation customers, particularly when the entire class of customers remains within the tolerance band. In the case of any customers who ignore the delivery requirements, they do so at their own risk and they could find themselves, on some occasions, subject to the charges for being outside of the boundaries. Accordingly, we are granting the exceptions filed by DPS Staff and Multiple Intervenors, and we are retaining the rule.

Service Classification No. 13 - Transportation Service

Multiple Intervenors has proposed that the volumetric charges applicable to the transportation service customers in Service Classification No. 13 be reduced by shifting costs and collecting them in the monthly charges applicable to the customers. Multiple Intervenors does not disagree with the rate [*86] design principles espoused by NFG or DPS Staff. Multiple

Intervenors simply prefers, to a greater extent, that volumetric rates be no higher than absolutely necessary and that costs properly included in the monthly charge be collected there.

Our resolution of the issues that set the Company's revenue requirements, and our acceptance of the judge's recommendation to increase the amount of the minimum bills, permits us to implement the rate design principles that are generally supported by the parties in this case to set the transportation service rates. The rate design we are adopting is consistent with the objectives that Multiple Intervenors has sought here.

Overall Revenue Allocation and Delivery Rate Design

As a result of our determination of a $ 1.8 million revenue increase, combined with our adoption of various minimum charge increases to reflect the cost to serve customers, the individual class rate designs, in some instances, will require volumetric rate decreases to offset the revenues produced by the minimum charges. These results are acceptable because of the need to move existing gas delivery rates closer to the indicated costs to serve. Accordingly, we are adopting **[*87]** the revenue allocation and delivery rate design process outlined in Staff's brief on exceptions.

First, the delivery revenue increase will be allocated to the service classes based on the historic proportion of non-gas revenue for each service class. This methodology fairly distributes the overall delivery revenue increase to the service classes and it is similar to the revenue allocation methodology that was adopted in NFG's last rate proceeding.

The next step is the recovery of the proposed delivery revenue increase from individual service classes. As previously discussed, we are increasing the minimum charges for the residential classes by $ 2.00 per bill per month. To the extent this produces more revenues than the allocation of the overall delivery revenue increase to the classes, the volumetric rates should be decreased to compensate.

We are also adopting the Company's proposals to recover the delivery revenue increase from the non-residential classes. For Service Classification No. 3 (SC 3) General Service and Service Classification No. 13 (SC 13) Transportation Categories TC-2.0 and TC 3.0, the allocated increase should be recovered 50% through minimum charges and 50% through **[*88]** the volumetric block rates. For SC 13 TC-1.1, the entire allocated increase should be recovered through the volumetric block rates. For SC 13 TC-4.0 and TC-4.1, the allocated increase should be recovered by increasing the existing minimum charges for each of these transportation categories to $ 3,827.24, based on the cost of service study results presented in the case, with any remainder of the increase recovered from the volumetric block rates. As with the increase in the residential minimum charges, to the extent any of the non-residential delivery rate designs produce more revenues than the allocation of the overall delivery revenue increase to the classes, the volumetric rates should be decreased to compensate.

We are adopting these changes for the non-residential classes because they allocate the rate increase primarily to the minimum charges rather than the volumetric charges in acknowledgement that the larger customers in these classes are sensitive to changes in their volumetric energy rates. While these changes do not move the minimum charges in the various subclasses of SC No. 13 fully to the cost of service levels espoused by Multiple Intervenors, they remain acceptable **[*89]** rate designs for the larger customers in these classes because they limit the changes in volumetric rates, albeit to a lesser degree than preferred by Multiple Intervenors.

We also adopt NFG's proposed redesign for the residential service class block rates. The tail block rates will be reduced and the penultimate block rates increased to shift some of the recovery of the fixed costs of service to earlier blocks of the rate structure. This is consistent with our recent order addressing revenue decoupling mechanisms. We indicated that the implementation of fully cost-based rates is a means of eliminating any utility disincentives to promote conservation programs. Our action here moves the existing residential rates in the direction of the cost to serve without creating any undue customer impacts.

We recognize that the decrease in the tail block rate will reduce the savings for residential customers who conserve energy. Nonetheless, this action is an acceptable movement of fixed cost recovery to earlier charges in the residential rate structure. Moreover, customers receive a great incentive to conserve through the more significant savings derived from the avoided

cost of the gas commodity [*90] itself. We note that the residential rate design will have a tail block rate that is similar to the rate blocks of other major upstate gas utilities. The reduction in the tail block will serve to reduce the future impact of the adoption of a revenue decoupling mechanism.

Finally we adopt the forecast migration of existing SC 3 General Service ″religious″ accounts to SC 1 Residential Service which results from the residential rate reallocation adopted above and pursuant to existing tariff provisions. The individual class bill impacts of the adoption of these rate designs are attached to this order.

RETAIL ACCESS

In its brief on exceptions, CPB seeks clarification of two retail access matters. The first concerns the Market Match and Market Expo programs that NFG plans to eliminate. Only Direct Energy Services, LLC proposed anything different. It suggested that new programs of a similar nature be established for customers other than the large-use customers who participated in the Market Match and Market Expo programs. CPB states that the usefulness of any potential programs for smaller-use customers can be addressed in the proceeding that was begun this year to examine the policies [*91] and practices for retail energy markets; and, they need not be addressed in this rate proceeding. [22]

The second clarification concerns NFG's customer outreach and education expenditures for retail energy markets. NFG stated that it will be curtailing its spending in this category. CPB agrees that it should reduce such expenditures as much as possible, if not eliminate them entirely. CPB requests that we specify the amount, if any, that is being included in rates for this outreach and education, and for the Market Match and Market Expo programs.

In the historic test period used in this case, $ 4,400 was expended on the Market Expo program and $ 370 was incurred for the Market Match program not including the Company's labor costs. Neither of these amounts, if carried forward to the forecast test year, would materially affect the revenue [*92] requirement calculation. It is less clear, on the record in this case, how much NFG spent on outreach and education during the historic period on retail access matters. Nonetheless, we are satisfied, with the adjustments that have been made to NFG's outreach and education proposals, that the proper amount for such activities has been reflected in the rates established here.

We are aware that NFG is no longer providing an ESCO referral program. [23] The Company's program expired in mid-2007 and the Company has not chosen to continue this program on its own. We may be interested in having the company establish an ESCO referral program in the future. However, we will defer making a decision on that threshold question until after we see a proposal from NFG which incorporates the best practices from other utilities where the program has been successful at considerably less expense per migrated customer than NFG incurred in marketing its program. Further, as part of our evaluation, we would like to consider whether the ESCOs should pay all or substantially all of the costs of implementing an ESCO referral program. We direct NFG to meet with Staff and interested parties to discuss an optimal [*93] ESCO referral program for its service territory. Parties should examine best practices from other utilities' experience, review program costs and benefits to identify elements of programs that have proven successful, and consider who should be responsible for paying for the costs of an ESCO referral program in the future. We would like to see a filing from the company within 90 days from this order reporting on the results of this collaborative effort. The Company's filing should

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[22] Case 07-M-0458, Competitive Retail Energy Markets Policies and Practices, Order on Review of Retail Access Policies and Notice Soliciting Comments (issued April 24, 2007).

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[23] See Case 00-M-0504, Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets and Fostering Development of Retail Competitive Opportunities, Statement of Policy on Further Steps Toward Competition in Retail Energy Markets (August 25, 2004); Case 05-M-0858, State-Wide Energy Services Company Referral Programs & Case 05-M-0332, Central Hudson Gas and Electric Corporation - Retail Energy Market Plan, Order Adopting ESCO Referral Program Guidelines and Approving an ESCO Referral Program Subject to Modifications (issued December 22, 2005); Case 07-M-0458, supra, Order on Review of Retail Access Policies and Notice Soliciting Comments (issued April 24, 2007).

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outline the relevant costs, benefits and best practices of an ESCO referral program, including any proposal for the establishment of such a program in its service territory, in sufficient detail to enable us to reach a decision regarding any such program.

[*94]

During the rate year, NFG will continue to provide a purchase of receivables program, an essential element of its retail access program. The Company cannot terminate this program without first providing 12 months' notice of any such plan to terminate and allowing time for the parties and Commission to evaluate its proposal.

UNBUNDLED DELIVERY AND COMMODITY COSTS AND CHARGES

Merchant Function Charge

In its brief on exceptions, DPS Staff requests that we state the amount of the merchant function charge and clarify the portion of the records and collection costs that is included in the purchase of receivables discount rate. Staff also takes exception to the administrative law judge's recommendation concerning the annual reconciliation that is needed to ensure that the merchant function charge (MCF) operates properly.

Using the net revenues stated by the administrative law judge, Staff indicates that the fixed cost amount for records and collection is about $ 9.85 million, and the amount for the procurement of commodity is about $ 3.52 million. [24] A volumetric charge will be used to recover the fixed records and collection, and commodity costs. The amount collected will be **[*95]** reconciled with these amounts at the end of the rate year.

According to Staff, the variable cost amount for uncollectibles and storage gas carrying charges is about $ 10.7 million. These costs will be set monthly on the basis of the natural gas supply charge. Staff believes that the uncollectibles charge should be set at 2.8276% for residential customers and at 0.4020% for the non-residential service classifications. The gas storage carrying charge, according to Staff, may either be set at the start of the year or be set monthly. In either event, Staff believes that the actual amount collected should be reconciled at the end of the rate year.

In sum, Staff states that the merchant function charge for residential customers is expected to be about 0.5050 [cent]/Mcf, and for non-residential customers it is expected to be 0.2479 [cent]/Mcf. However, NFG considers these amounts to be too high and **[*96]** claims that Staff did not use the embedded cost of service study results that should have been used.

According to NFG, it performed and provided the embedded cost of service study results required by the Commission in Case 00-M-0504 which Staff should have used for its unbundling purposes in this proceeding. NFG states that the merchant function charge for residential customers should be 0.259 [cent]/Mcf and 0.0078 [cent]/Mcf for non-residential customers.

Addressing the need for separate reconciliations of the storage carrying costs, the supply component, and the records and collection costs, Staff states that NFG could substantially over-collect or under-collect these costs due to annual variations in weather. To ensure that the amounts collected are neither excessive nor deficient, Staff believes that an annual reconciliation of these components should be performed.

We find that Staff's allocation of records and collection based on revenues is consistent with the intent of the Commission's order to avoid one set of customers paying for records and collection once and another set of customers paying twice. As a result, we find that Staff's assignment of $ 14.202 million of the revenue **[*97]** requirement to be recovered through the MFC and POR discount as well as an additional recovery of an estimated $ 10.7 million in gas related costs for storage gas carrying costs and uncollectibles to be fair and reasonable. We find that the Staff's recommendation of annual reconciliations for all but the uncollectible component of the MFC provides fair and equitable protection to both the customer and Company from the effects of weather on the recovery of merchant function costs. As to the reconciliation

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[24] Staff also states that the records and collection cost portion of the purchase of receivables program is about $ 832,000.

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of the POR discount rate component for records and collection, recovery of the reconciliation should be accomplished through the MRA to enable a fixed POR discount rate.

Billing and Payment Processing Charge

The bills NFG renders to customers show a separately stated charge for billing and payment processing. The charge is shown on the bills presented to full service customers and the bills that NFG renders for customers served by energy service companies (ESCOs). The Company reports that customers are confused by the separate charge and proposed elimination of the separate charge and the inclusion of this cost in the monthly customer charge shown on the bills. The administrative [*98] law judge endorsed the Company's proposal.

On exceptions, DPS Staff asserts that NFG is incorrectly billing the ESCO customers. According to Staff, the Company should not be directly billing ESCO customers for ″utility consolidated billing. ″ Staff asserts that the applicable Commission orders require ESCOs to pay this cost. Staff also asserts that the Company's proposal in this case would compound the first error by rebundling ″utility consolidated billing″ into the monthly customer charge.

According to Staff, the customer confusion concerning the billing charge is due to NFG's insufficient customer education and its improper application of the charge to ESCO customers. In other areas of the State, billing charges have been implemented properly, according to Staff, and they have not produced the customer confusion that exists in the NFG service area. Staff states that NFG should be directed to adhere to the applicable orders concerning billing charges and it should be required to correctly display them on customers' bills.

In response to Staff, NFG denies that the bills it renders to ESCO customers are contrary to the Commission's requirements. To promote transparency and comparability, [*99] the Company shows a separately stated billing charge on all the bills it renders and it states that this practice is not precluded by the applicable Commission orders for consolidated bills issued to ESCO customers.

Staff is correct. By continuing to charge customers for billing on the consolidated bills for ESCO commodity and utility delivery service, National Fuel has not applied its billing charge according to our previous orders on this matter. In a February 2005 order, we reiterated our policy that the billing charge is for a competitive service and is not charged to retail access customers receiving consolidated bills from either the utility or the ESCO. [25] National Fuel should discontinue including a billing charge on its consolidated bills and instead charge ESCOs serving the customer this amount. As well, the billing charge should not be subsumed within the monthly customer charge which, as we have previously determined, would obscure an amount that might be saved when service from a competitor is obtained. [26] Instead, the billing charge should be identified on the bill as an itemized portion of the monthly customer charge. The Company's arguments regarding customer confusion [*100] were also explicitly addressed previously. The Commission determined that any confusion about the new billing charge should be addressed in consumer education and outreach efforts conducted by utilities, ESCOs, and Staff. [27] National Fuel should work with Staff in addressing the bill format aspects of this change.

The resulting projected merchant function charges discussed above, and the billing and payment processing charge of approximately $ 1.07, are in line with other fully unbundled merchant function charges for other utilities.

LOCAL GAS PRODUCTION

The administrative law judge recommended that local gas producers pay for the replacement meters that are needed to measure the low-flow gas that is produced by various gas wells in the Company's service area. DPS Staff takes exception

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[25] Case 00-M-0504 - Competitive Opportunities - Unbundling Track, Order Directing Submission of Unbundled Bill Formats, issued February 18, 2005) p. 23.

[26] Id.

[27] Id.

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to this recommendation and proposes [*101] that the cost of replacing existing orifice meters with rotary meters be included in rate base. Staff estimates that the cost for the replacement meters and correctors would be in the range of $ 300,000 to $ 900,000. In support of the inclusion of the replacement meters in rate base, Staff states that the orifice meters have been included in rate base and the policy that promoted such action would also support the inclusion of the replacement meters in rate base.

According to Staff, the locally produced gas helps to provide reliable service in western New York. It notes that the Commission recently stated, in Case 07-G-0299, [28] that locally produced gas serves as a direct replacement for the capacity that is otherwise provided by local distribution companies. As such, it is an important asset for the gas distribution systems in the State. The local gas producers provide 6.0 BCF annually directly into the NFG service territory and this supply source serves as an alternative to upstream pipeline capacity. Approximately 2.7 BCF of this amount flows through orifice meters.

[*102]

In response to Staff, NFG continues to propose that we approve a new tariff provision that would require the local gas producers to pay the costs for the replacement meters that are needed to measure low-flow gas. According to the Company, ratepayers should not have to pa for the changes to the measuring equipment that is needed due to changes in gas well production rates. NFG does not believe that ratepayers should be required to either support or subsidize the local gas producers' declining investments

We find that the policy that has supported the inclusion of the costs of the local gas producers' orifice meters in rate base also supports the rate base treatment that Staff has proposed for the replacement meters. Accordingly, the Company's revenue requirements should reflect an increase in the replacement program capital expenditures from $ 100,000 (the current amount) to $ 300,000 to cover the cost of replacing both the meters and correctors. The replacement of the meters and correctors should be accomplished over a three-year period. Installation costs should not be included. The interconnection agreements are very specific about the producers' being responsible for the costs [*103] of installation. We will maintain the integrity of the interconnection agreement and exclude the installation costs from revenue requirements to accomplish that goal. We are also directing the Company to cancel its proposed tariff revision that is inconsistent with our decision to include the replacement meter costs in rate base.

CAPACITY MATTERS

Contingency Capacity Costs

Retained capacity is used by NFG to provide daily and monthly balancing services for both transportation customers that deliver their gas supplies to the local distribution system and firm sales customers. It is included in the Company's ″firm design day″ requirements. Contingency capacity is kept by NFG to meet customer consumption requirements when ″firm design day″ criteria are exceeded. The parties do not dispute the usefulness of the 30,000 decatherms of daily contingency capacity that NFG maintains for system reliability purposes. This capacity is also used to cover provider of last resort requirements and it is a backstop for the possibility of third-party provider failure to deliver their required supplies.

The issue in this case concerns the allocation of the contingency capacity costs to customers. [*104] NFG included them in the calculation of retained capacity costs and would allocate them equally to sales and transportation customers. Staff considers the contingency capacity a backup to the retained capacity and would allocate it to the sales and transportation service classes on a pro-rata basis that takes entire design day capacity requirements into consideration. It objects to NFG's allocation of $ 1.3 million of these costs to transportation service customers that do not require any such standby service.

According to NFG, it is fair to recover the contingency capacity costs equally between the sales and transportation customer categories because both groups obtain reliability benefits from its availability. The Company also states that, as customers

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[28] Case 07-G-0299, Natural Gas Industry and the Role of Local Gas Distribution Companies-Capacity Planning and Reliability, Order on Capacity Release Programs (issued August 22, 2007).

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continue to switch from sales service to transportation service, the amount of contingency reserve costs that Staff's method allocates to sales customers will become increasingly unfair. For this reason, NFG believes that contingency capacity should be allocated to the customer groups regardless of the throughput amounts.

Contingency capacity is generally available to customers without discrimination and most customers should therefore [*105] bear the cost of retaining this capacity. Also, the Company should recover its contingency capacity costs from sales and monthly metered transportation customers because both groups benefit from the increased reliability that it provides. The Company's inclusion of contingency capacity costs in the analysis of retained capacity cost is appropriate. However, daily balanced customers should not pay contingency capacity costs because they assume the risk of reliability to the city gate. The Company is only required to backup these customers on a ″best efforts″ basis. Thus, retained capacity cost charges should be modified accordingly and the $ 4.4 million of the contingency capacity costs should be included in the retained capacity analysis. For purposes of determining the retained capacity charges, this cost should be equally allocated to sales and all monthly metered customers and daily balanced customers should not pay for any of this capacity.

Capacity Releases, Off-System Sales and Storage Fill Arrangements

To mitigate the cost of its gas supply assets, NFG engages in capacity releases and off-system sales. Currently, 85% of the net revenues from the capacity releases and [*106] off-system sales are returned to customers using the gas adjustment clause. NFG retains 15% of the net revenues.

1. Storage Fill Arrangements

NFG permits gas supplier agents to manage injections of gas into a portion of its storage capacity. They pay NFG for this use of its storage capacity. In 2006, NFG managed to save $ 140,000 by engaging in these arrangements. NFG proposed to include the storage fill transactions in the 85%/15% sharing arrangement and the administrative law judge has recommended the practice.

In its brief on exceptions, DPS Staff opposes the Company's proposal because NFG is required to diversify its purchase gas portfolio and to optimize gas storage management. According to Staff, storage fill arrangements differ from capacity releases and off-system sales in that they are not a means to minimize the costs of excess capacity or other pipeline services. Thus, Staff does not believe that the storage fill arrangements qualify for any incentive treatment. Staff also states that local distribution companies are not allowed by the Commission to make profits on their gas supply purchases. They are required to reconcile their actual gas commodity costs annually.

The [*107] transactions that NFG enters into with gas supplier agents, and the gas cost savings it achieves, do not qualify the Company for any potential incentive awards as would be provided by applying an 85%/15% sharing arrangement to this revenue source. The Company is obligated to manage its gas storage assets to achieve the lowest possible costs for ratepayers and, through the annual reconciliation of supply costs, customers receive the benefit of such transactions. While the judge may have perceived some similarities between these transactions and the capacity releases and off-system sales, the storage fill arrangements are distinguishable as they would involve the Company in the pricing of commodity gas purchases in its service area. Staff's exception is granted and the storage fill arrangements are excluded from the operation of the 85%/15% sharing arrangement.

2. The Mechanics of the Revenue Sharing Arrangement

The administrative law judge has recommended that all revenues obtained from off-system sales and capacity releases be shared by firm service customers and shareholders 85%/15%, respectively. In the past, the first $ 1 million was provided entirely to ratepayers before any [*108] sharing began. The judge recommended against a CPB proposal calling for ratepayers to receive the first $ 2 million and to switch to a 80%/20% sharing arrangement.

In its brief on exceptions, CPB states that off-system sales and capacity release transactions have become an established method of managing gas supply costs. It also states that in no other area is a utility company provided an incentive for fulfilling its fundamental obligations and performing as expected. In this instance, CPB believes that the existing $ 1

million threshold should be retained if its proposal is not adopted. According to CPB, ratepayers should not be placed in a worse position. CPB continues to believe that customers would be better off if they were allocated the first $ 2 million and were to receive 80% thereafter.

We find that there is no compelling reason to alter the existing arrangement either by increasing the initial amount for ratepayers or by increasing the percentage amount that NFG can earn. We will retain the existing arrangement that excludes capacity releases made to marketers under capacity release programs and the capacity stranded by the migration of aggregation customers. The revenues [*109] from these activities flow entirely to ratepayers and it forms the basis for the first $ 1 million that they receive. [29]

3. Staff's Capacity Cost True-Up Mechanism

In this case, DPS Staff proposed that NFG implement a capacity release true-up mechanism for the capacity it releases to ESCOs. The mechanism would account for the difference between the cost of the released capacity and the Company's weighted average cost of capacity. Other gas distribution companies in the State employ such mechanisms. However, NFG stated that it would not be workable in its service area because it does not know whether a marketer is served by released capacity or some other source. The administrative law judge accepted the Company's explanation and recommends that the parties consider another means for accounting for capacity [*110] cost differences.

In its brief on exceptions, DPS Staff notes that the consideration of this matter will continue in Case 07-G-0299 and Staff expects to discuss it with NFG when the Company submits the compliance filings it is required to make. [30]

MISCELLANEOUS MATTERS

LICAAP Program

The administrative law judge accepted DPS Staff's proposal to increase the amount for the Low Income Customer Affordability Assistance Program (LICAAP) from $ 5 million to $ 6 million and to collect this amount in rates rather than thorough a surcharge as had been proposed by NFG. On exceptions, Staff seeks confirmation that the $ 6 million should be collected from all customers, a position that no party opposed. We concur.

Accrued Interest on the Internal Pension Reserve Debit Balance

In this case, DPS Staff and NFG differ on the amount of interest that has accumulated on the internal pension reserve debit [*111] balance. The $ 3.5 million difference between them is attributable to the parties' differing views about the Commission action in the last NFG rate proceeding. According to NFG, the joint proposal that the Commission adopted allowed it to accumulate interest for the entire fiscal year that ran from October 1, 2004 to September 30, 2005. According to Staff, the Commission only allowed NFG to accumulate interest for the portion of the fiscal year that remained open following the date of the Commission's decision. The administrative law judge recommends that we adopt Staff's position absent clear evidence that the Commission intended that the interest calculation apply to the period preceding the last rate plan.

On exceptions, NFG claims that the additional interest it has claimed is expressly recognized in an appendix to the joint proposal. It believes that this is sufficient evidence to support the conclusion that the Commission intended to allow it accrue interest for the entire fiscal year that was open when the Commission acted. It points out that annual figures were used in the hypothetical calculation included in the appendix. According to the Company, Staff's position is based [*112]

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[29] Sharing incentives only begin after revenues from mandatory capacity releases, voluntary capacity release programs, and mitigation of stranded capacity due to migration are returned to firm sales customers.

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[30] Case 07-G-0299, Natural Gas Industry Issues, Order on Capacity Release Programs (issued August 30, 2007).

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on speculation and a poor reading of the joint proposal. Rather than rely on any available parol evidence, the Company believes that the example provided in the appendix, and the terms of the joint proposal, should control.

In response, Staff states that the appendix to the joint proposal was not intended for the use that NFG is attempting here. According to Staff, the appendix had but one purpose, to demonstrate the interest calculation and not to determine the period for which it was to be used. Staff states that the joint proposal does not contain any term stating that interest would be provided for the period prior to the commencement date of the joint proposal.

We find that the judge correctly decided this matter on the available information. The joint proposal is vague and ambiguous on the point that NFG has raised and the hypothetical calculation to which NFG points is inconclusive. It is neither a clear term nor a definite provision of the joint proposal that is self-executing. Moreover, the appendix does not address the period for which the calculation is to be made. In these circumstances, it is not possible to apply the rate plan to the period that preceded it. NFG's exception **[*113]** is denied.

90%/10% Sharing Mechanism

In this proceeding and in previous cases, NFG has projected the amount of revenues it expects to receive from large volume transportation customers. Since 1986, there has been a sharing mechanism in use to account for the difference between the forecast and actual amount of transportation revenues. If the Company receives a greater amount than forecast, 90% of the additional revenue is credited to sales customers and NFG retains 10% for its shareholders. If the Company receives less than the forecast amount, it collects 90% of the shortfall from sales customers and it does not recover the remaining 10%.

In this case, NFG has proposed to modify the operation of the sharing mechanism to include transportation customers in the 90%/10% sharing mechanism. Due to a significant migration of customers from the sales to the transportation category, NFG believes it is no longer fair to recover the variance solely from sales customers. Multiple Intervenors opposes the change.

Multiple Intervenors notes that gas transportation service has been growing throughout the period that the sharing mechanism has been in place and it does not consider this trend **[*114]** to be a changed circumstance. It also doubts that other gas utilities in the State, with similar mechanisms, apply them to the service classification whose revenues are subject to reconciliation. Multiple Intervenors opposes the proposal because it will add volatility to the prices that large transportation customers pay. If NFG does not receive a substantial rate increase as a result of this case, Multiple Intervenors believes that there is no reason to change the sharing mechanism that would be addressing about the same amount of revenues as has previously been projected for the gas transportation service

DPS Staff supports NFG's proposal. Staff states the mechanism, when first adopted, applied to all customers who took firm bundled sales service. But, many customers are no longer subject to the mechanism which, according to Staff, is a changed circumstance. By revising the mechanism to apply to all firm sales and transportation customers, Staff believes that it will be restored to the way it was originally intended to operate.

We find that the operation of the 90%/10% sharing arrangement requires the modification that NFG has proposed in this case to restore it to its original **[*115]** operation. To the extent that retail access has provided customers the ability to receive commodity service from energy service companies, NFG's full service customers have diminished. For this reason, the arrangement must be modified to provide all customers the ability to share in the true-up of the transportation service revenues to the extent permitted and required.

Cost Mitigation Reserve

Multiple Intervenors proposes that any funds remaining in the Cost Mitigation Reserve be returned to customers during the rate year. We have decided to retain the funds in the Cost Mitigation Reserve and to use them to offset specific cost items that are not otherwise reflected in rates. Such items include the avian flu expense addressed above and any Conservation Incentive Program costs incurred before the rate year, among others.

Updates

In its brief on exceptions, DPS Staff has provided updates for the long term debt rate, the short term debt rate, the customer deposit rate, and the GDP deflator rate to be used in this case. It has also provided an updated state income tax rate and the updated amount for health care costs.

CONCLUSION

On the basis of our resolution of the issues [*116] in this proceeding, we are authorizing National Fuel Gas Distribution Corporation to increase its annual revenues by $ 1.8 million. The Recommended Decision issued on September 28, 2007, to the extent not inconsistent herewith, is adopted as part of this order and is incorporated herein by reference.

The Commission orders:

1. National Fuel Gas Distribution Corporation is directed to file cancellation supplements, effective on not less than one day's notice on or before December 26, 2007 cancelling the tariff amendments and supplements listed in Appendix 2 to this Order.

2. National Fuel Gas Distribution Corporation is directed to file, on not less than one day's notice, such further tariff revisions as are necessary to effectuate the provisions adopted by this order, including a $ 1.8 million annual increase to take effect December 28, 2007 as detailed in the attachment to this order. The Company shall serve copies of its filing on all parties to this proceeding. Any comments on compliance must be received at the Commission's offices within ten days of service of the Company's proposed amendments. The amendments specified in the compliance filing shall not become effective on [*117] a permanent basis until approved by the Commission.

3. National Fuel Gas Distribution Corporation is directed to meet with Staff and other interested parties to discuss costs, benefits and best practices for ESCO referral programs consistent with the discussion in this order, in an attempt to reach a consensus proposal regarding an ESCO referral program in the Company's service territory. The Company shall file a report on this collaborative effort within 90 days of the issuance of this order or within such other time frame as may be directed by the Secretary.

4. The requirement of Section 66(12)(b) of the Public Service Law that newspaper publication be completed prior to the effective date of the proposed amendments is waived and the Company is directed to file with the Commission, not later than six weeks following the amendments' effective date, proof that a notice to the public of the changes made by the amendments has been published once a week for four successive weeks in newspapers having general circulation in the areas affected by the amendments.

5. This proceeding is continued.

By the Commission,

National Fuel Gas Distribution Corporation
New York Division
Income [*118] Statement and Rate of Return Computation
For the Twelve Months Ended December 31, 2008
($ 000 omitted)

Appendix 1

	ALJ Appendix A TME 12/31/08	**Commission Adjs**	**As Adj Commission**
Operating Revenues			
Sale of Gas	$ 723,635		$ 723,635 (14)

	ALJ Appendix A TME 12/31/08	Commission Adjs	As Adj Commission
Other Revenues			
Late Payment Charges	6,811 (1)	(4,250)	2,561 (14)
Other Revenues	686	-	686
State Income Tax Reconciliation	-	-	-
Excess Earnings - Ratepayer's Share	-	-	-
Pension/OPEB	-	-	-
Back out Credit	-	-	-
Capacity Release Revenues	-	-	-
ELIRA	-	-	-
Cost Mitigation Reserve	-	-	-
RD&D	-	-	-
LIRA	-	-	-
Total Other Revenues	7,497	(4,250)	3,247
Transportation Revenues	69,516		69,516
Total Revenues	800,648	(4,250)	796,398
Less: Gas Purchases	528,820	-	528,820
Revenue Taxes	12,018	-	12,018
Net Revenues	259,810	(4,250)	255,560
Operating Expense			
Labor	46,987 (2)	(513)	46,474
Employee Benefits	26,724 (3)	61	26,785
Uncollectibles	6,276 (4)	(425)	5,851 (14)
Avian Flu Response	329 (5)	(329)	-
EBD PTRA	335	-	335
Enterprise GIS	625	-	625
Conservation Incentive Program	-	-	-
Meter Maintenance Fees	(789)	-	(789)
PSC Assessment	2,368 (6)	2	2,370
Rate Case	85	-	85
Research and Development	1,267	-	1,267
Site Remediation Costs	1,731	-	1,731
Billing	2,855	-	2,855
Contract Administration	794	-	794
Control Group	256	-	256
Gas Transportation	1,523	-	1,523
Information Services	6,356	-	6,356
Messenger Expense	59	-	59
Meter Shop	729	-	729
Remittance Processing	282	-	282
Telephone	465	-	465
Transportation	4,337	-	4,337
Contractors & Outside Services	10,197 (7)	42	10,239
Dues	539 (7)	2	541
Environmental	29 (7)	0	29
Equipment Rentals	1,719 (7)	7	1,726
Injuries & Damages	2,250 (7)	9	2,259
Material	2,829 (7)	12	2,841
Office Employee Expense	1,594 (7)	7	1,601
Other Expense	(1,969) (7)	(8)	(1,977)
Other Insurance	1,714 (7)	7	1,721
Postage	200 (7)	1	201

	ALJ Appendix A TME 12/31/08	Commission Adjs	As Adj Commission
Promotional Expense	611 (7)	3	614
Rents	2,274 (7)	9	2,283
Revenue - Income	(1,834) (7)	(8)	(1,842)
Transportation Expense	259 (7)	1	260
UNICAP	(1,167) (7)	(5)	(1,172)
Utilities	1,832 (7)	8	1,840
Royalty	-	-	-
Productivity Adj	-	-	-
	$ 124,671	$ (1,117)	$ 123,554

[*119]

	Revenue Requirement	After Increase TME 12/31/08
Operating Revenues		
Sale of Gas	$ 1,819	$ 725,454
Other Revenues		
Late Payment Charges	6	2,567
Other Revenues		686
State Income Tax Reconciliation		-
Excess Earnings - Ratepayer's Share		-
Pension/OPEB		-
Back out Credit		-
Capacity Release Revenues		-
ELIRA		-
Cost Mitigation Reserve		-
RD&D		-
LIRA		-
Total Other Revenues	6	3,253
Transportation Revenues		69,516
Total Revenues	1,825	798,223
Less: Gas Purchases		528,820
Revenue Taxes	48	12,066
Net Revenues	1,776	257,336
Operating Expense		
Labor		46,474
Employee Benefits		26,785
Uncollectibles	42	5,893
Avian Flu Response	-	
EBD PTRA		335
Enterprise GIS		625
Conservation Incentive Program	-	
Meter Maintenance Fees		(789)
PSC Assessment		2,370
Rate Case		85
Research and Development		1,267
Site Remediation Costs		1,731
Billing		2,855
Contract Administration		794
Control Group		256
Gas Transportation		1,523

	Revenue Requirement	After Increase TME 12/31/08
Information Services		6,356
Messenger Expense		59
Meter Shop		729
Remittance Processing		282
Telephone		465
Transportation		4,337
Contractors & Outside Services		10,239
Dues		541
Environmental		29
Equipment Rentals		1,726
Injuries & Damages		2,259
Material		2,841
Office Employee Expense		1,601
Other Expense		(1,977)
Other Insurance		1,721
Postage		201
Promotional Expense		614
Rents		2,283
Revenue - Income		(1,842)
Transportation Expense		260
UNICAP		(1,172)
Utilities		1,840
Royalty		-
Productivity Adj	-	-
	$ 42	$ 123,596

[*120]

	ALJ Appendix A TME 12/31/08	Commission Adjs
Depreciation Expense	$ 28,827 (8)	$ 3
Taxes Other Than Income Taxes		
FICA	3,293 (9)	(37)
Federal & State Unemployment	166	
Property Taxes	31,643 (10)	34
Sales & Use	62	
Miscellaneous	18	
Total	35,182	(3)
Federal Income Taxes	15,039 (11)	(1,415)
Deferred Income Taxes		
Tax Depreciation	792	-
Capitalized Overheads	(971)	-
Contributions in aid of Construction	(389)	-
Reserve for bad debts	(55)	-
Miscellaneous	-	-
Total	(623)	-
Investment Tax Credit	-	-
State Income Taxes	2,845 (11)	(472)
Deferred State Income Tax	481 (12)	(26)
Total	3,326	(498)
Total Operating Revenues Deductions	206,422	(3,031)
Utility Operating Income	$ 53,388	$ (1,219)

	ALJ Appendix A TME 12/31/08	Commission Adjs
Rate Base	$ 702,597 (13)	$ (3,757)
Rate of Return	7.60%	
Return on Equity	8.96%	

	As Adj Commission	Revenue Requirement	After Increase TME 12/31/08
Depreciation Expense	$ 28,830		$ 28,830
Taxes Other Than Income Taxes			
FICA	3,256		3,256
Federal & State Unemployment	166		166
Property Taxes	31,677		31,677
Sales & Use	62		62
Miscellaneous	18		18
Total	35,179	-	35,179
Federal Income Taxes	13,624 (14)	564	14,188
Deferred Income Taxes			
Tax Depreciation	792		792
Capitalized Overheads	(971)		(971)
Contributions in aid of Construction	(389)		(389)
Reserve for bad debts	(55)		(55)
Miscellaneous	-		-
Total	(623)	-	(623)
Investment Tax Credit	-	-	-
State Income Taxes	2,373 (14)	123	2,496
Deferred State Income Tax	455		455
Total	2,828	123	2,951
Total Operating Revenues Deductions	203,392	729	204,121
Utility Operating Income	$ 52,168	$ 1,047	$ 53,216
Rate Base	$ 698,840		$ 698,840
Rate of Return	7.46%		7.61%
Return on Equity	8.76%		9.10%

[*121]

Other Revenues		
(1) Exclude late payment charges for Deferred Payment Arrangements (DPA).		$ (4,250)
Labor		
(2) Exclude lump sum payment.	$ (513)	
		$ (513)
Employee Benefits		
(3) Update inflation factor on hospitalization.	$ 18	
Include Top Hat.	43	
Total		$ 61
Uncollectibles		
(4) Reduce expense for the elimination of the late payment charges on DPA.		$ (425)
(5) Avian Flu Response		
Eliminate allowance for Avian Flu Response. Recover amount from CMR.		$ (329)
PSC Assessment		
(6) Include latest available 2007 - 2008 Bill.		$ 2
Inflation Pool		

(7) Update Inflation pool elements for 5.60% (Appendix 1), Page 4.	$ 87
(8) Depreciation Expense	
Include depreciation on additions	$ 3
FICA	
(9) Include Commission payroll adjustment to calculate taxes.	$ (37)
Property Taxes	
(10) Update property taxes and five year average using September 30,2007 data.	$ 34
Federal Income Taxes & State Income Taxes	
(11) See (Appendix 1), Page 5.	$ (1,887)
Deferred State Income Taxes	
(12) Calculate Deferred State Income Taxes at 7.1 % tax rate.	$ (26)
Rate Base	
(13) See (Appendix 1), Page 7.	$ (3,757)
Revenue Requirement	
(14) See revenue requirement (Appendix 1), Page 8.	$ 1,819

[*122]

	ALJ Appendix A TME 12/31/08	**Eliminate ALJ Inflation 5.166%**	**Net of Inflation**	**Commission Adjustments**
Contractors	$ 10,197	$ 501	$ 9,696	
Dues	539	26	$ 513	
Environmental	29	1	$ 28	
Equipment Rentals	1,719	84	$ 1,635	
Injuries & Damages	2,250	111	$ 2,139	
Materials	2,829	139	$ 2,690	
Office Employee	1,595	78	$ 1,517	
Other Expense	(1,969)	(97)	$ (1,872)	
Other Insurance	1,714	84	$ 1,630	
Postage	200	10	$ 190	
Promotional Expense	611	30	$ 581	
Rents	2,273	112	$ 2,161	
Revenue Income	(1,834)	(90)	$ (1,744)	
Transportation	259	13	$ 246	
UNICAP	(1,167)	(57)	$ (1,110)	
Utilities	1,832	90	$ 1,742	
	-	-	-	
Total	$ 21,077	1,035	$ 20,042	$ -

Commission Update

	As Adjusted	**Commission Inflation 5.600%**	**After Inflation**	**Adjustments**
Contractors	$ 9,696	$ 543	$ 10,239	$ 42
Dues	513	29	541	2
Environmental	28	2	29	0
Equipment Rentals	1,635	92	1,726	7
Injuries & Damages	2,139	120	2,259	9
Materials	2,690	151	2,841	12
Office Employee	1,517	85	1,602	7
Other Expense	(1,872)	(105)	(1,977)	(8)
Other Insurance	1,630	91	1,721	7

	As Adjusted	Commission Inflation 5.600%	After Inflation	Adjustments
Postage	190	11	201	1
Promotional Expense	581	33	614	3
Rents	2,161	121	2,282	9
Revenue Income	(1,744)	(98)	(1,842)	(8)
Transportation	246	14	260	1
UNICAP	(1,110)	(62)	(1,172)	(5)
Utilities	1,742	98	1,840	8
	-	-	-	
Total	$ 20,042	$ 1,122	$ 21,164	$ 87
Commission Update		5.600%		

[*123]

	ALJ Appendix A TME 12/31/08	Commission Adjs	As Adj Commission
Operating Income Before Income Taxes	$ 71,130 [a]	$ (3,133)	$ 67,997
Operating Income Adjustments:			
Interest Expense	23,629 [b]	1,383	25,012
Cost of Retiring Property	2,100	-	2,100
Book Depreciation	(28,827) [c]	(3)	(28,830)
Income Tax Depreciation	39,616 [c]	3	39,619
Meal/Entertainment/Dues	(71)	-	(71)
Contributions in Aid of Construction	(1,200)	-	(1,200)
Bad Debts - Net	(171)	-	(171)
Capitalized Overheads	(3,000)	-	(3,000)
Medicare Subsidies Received	1,120	-	1,120
	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
	-	-	-
		-	
Total Operating Income Adjustments	33,196	1,383	34,579
Taxable Income	37,934	(4,516)	33,418
State Income Tax @ 7.1%	2,845	(472)	2,373
Tax Depreciation	7,880	-	7,880
Income subject to Federal Income Tax	42,969	(4,043)	38,926
Federal Income Tax @ 35%	15,039	(1,415)	13,624
Specific Exemption	0	-	0
Investment Tax Credit	0	-	0
Federal Income Tax	$ 15,039	$ (1,415)	$ 13,624
[a] Decrease operating income for Commission adjustments.	$ (3,133)		
[b] Decrease Interest deduction (See Appendix 1, Page 6)	1,383		
[c] Include the impacts to FIT for depreciation adjustment.	3		

[*124]

	Revenue Requirement	After Increase TME 12/31/08
Operating Income Before Income Taxes	$ 1,735	$ 69,732
Operating Income Adjustments:		
Interest Expense		25,012
Cost of Retiring Property		2,100
Book Depreciation		(28,830)
Income Tax Depreciation		39,619
Meal/Entertainment/Dues		(71)
Contributions in Aid of Construction		(1,200)
Bad Debts - Net		(171)
Capitalized Overheads		(3,000)
Medicare Subsidies Received		1,120
	-	
	-	
	-	
	-	
	-	
	-	
	-	
Total Operating Income Adjustments	-	34,579
Taxable Income	1,735	35,153
State Income Tax @ 7.1%	123	2,496
Tax Depreciation		7,880
Income subject to Federal Income Tax	1,611	40,537
Federal Income Tax @ 35%	564	14,188
Specific Exemption		0
Investment Tax Credit		0
Federal Income Tax	$ 564	$ 14,188

[a] Decrease operating income for Commission adjustments.

[b] Decrease Interest deduction (See Appendix 1, Page 6)

[c] Include the impacts to FIT for depreciation adjustment

	Commission Projected TME 12/31/08
Adjusted Rate Base	$ 698,840
Interest Bearing CWIP	0
Total	698,840
Cost Component	3.58%
Interest Deduction	$ 25,012
(1) Debt Component	
Long Term Debt	2.99%
Short Term Debt	0.56%
Customers Deposits	0.03%
Total	3.58%

[*125]

	ALJ Appendix A TME 12/31/08	Commission Adjustments
Net Plant	$ 746,299 [a]	$ 99
Working Capital		
Operating & Maintenance Expense	15,584 [b]	(140)
Earnings Base in Excess of Capitalization	30,235	
Total Cash Allowance	45,819	(140)
Prepayments	10,793	-
Materials & Supplies	5,722	-
Gas Storage Inventory	-	-
Accrued Liability for Annuity		
Total Working Capital	62,334	(140)
Deferred Income Taxes-Liberalized Depreciation	(112,577)	-
Deferred Income Taxes-ITC	(3,212)	-
Deferred HIECA Costs	-	-
Deferred NY PSC Assessment	1,648	-
Deferred Management Audit	-	-
Deferred R,D&D	(168)	-
Deferred Sales Tax	-	-
Deferred Site Remediation Costs	4,937 [c]	(3,716)
TRA Impacts Uncollectibles	3,429	-
Internal Pension Reserve	-	-
Deferred Gas Planning	-	-
Deferred LIRA	-	-
Elimination Reorganization Costs C 27934	(93)	-
	-	-
Rate Base at Mid-Point	$ 702,597	$ (3,757)
[a] Increase plant for rotary meters.	$ 99	
[b] Include Commission O&M working capital.	$ (140)	
[c] Reduce SIR balance for additional Insurance proceeds.	$ (3,716)	

	As Adjusted Commission TME 12/31/08
Net Plant	$ 746,398
Working Capital	
Operating & Maintenance Expense	15,444
Earnings Base in Excess of Capitalization	30,235
Total Cash Allowance	45,679
Prepayments	10,793
Materials & Supplies	5,722
Gas Storage Inventory	-
Accrued Liability for Annuity	
Total Working Capital	62,194
Deferred Income Taxes-Liberalized Depreciation	(112,577)
Deferred Income Taxes-ITC	(3,212)
Deferred HIECA Costs	-
Deferred NY PSC Assessment	1,648

	As Adjusted Commission TME 12/31/08
Deferred Management Audit	-
Deferred R,D&D	(168)
Deferred Sales Tax	-
Deferred Site Remediation Costs	1,221
TRA Impacts Uncollectibles	3,429
Internal Pension Reserve	-
Deferred Gas Planning	-
Deferred LIRA	-
Elimination Reorganization Costs C 27934	(93)
	-
Rate Base at Mid-Point	$ 698,840
[a] Increase plant for rotary meters.	
[b] Include Commission O&M working capital.	
[c] Reduce SIR balance for additional Insurance proceeds.	

[*126]

	Commission YE 12/31/08
Adjusted Rate Base	$ 698,840
Rate of Return	7.61%
Required Utility Operating Income	53,216
Utility Operating Income before increase	52,168
Over/(Under) Operating Income	1,047
Retention Factor	57.40209%
Revenue Requirement	$ 1,825
Less Late payment factor	$ 6
	YE 12/31/08
Increase in Rates	$ 1,825
Less Revenue Taxes	48
Uncollectible Accounts	42
Informational Advertising	-
Conservation Program	-
Taxable Income for SIT	1,735
SIT	123
Taxable Income for FIT	1,611
Federal Income Tax @ 35%	564
Net	$ 1,047
(1) Retention Factor	
	YE 12/31/08
Revenue	100.0000%
Less Revenue Taxes	2.65034%
Uncollectible Accounts	2.28948%
Informational Advertising	0.00000%
Conservation Program	0
Total	95.06018%
Reciprocal of State Tax Rate	0.929
Net	88.31091%
Reciprocal Of Tax Rate	65%

	Commission YE 12/31/08
Retention Factor	57.40209%
Commission Retention Factor - Uncollectibles	
Uncollectibles per Commission	5,851
Commission Adjustment	
Net Revenues	255,560
Total Revenues 255,560	
Factor	2.28948%

Commission Rate of Return **YE 12/31/08**

	Ratios	Cost	Weighted Cost
Long Term Debt	45.54%	6.57%	2.99%
Short Term Debt	9.32%	5.98%	0.56%
Customer Deposit	0.79%	3.76%	0.03%
Common Equity	44.35%	9.10%	4.04%
	100.00%		7.61%

[*127]

APPENDIX 2

Filing by: NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Amendments to Schedule P.S.C. No. 8 - Gas

Original Leaves Nos. 37.1, 148.10, 150.1, 153.1, 158.1
First Revised Leaves Nos. 209.1, 267.1, 298.2, 305
Second Revised Leaves Nos. 10, 74.3, 148.7, 148.8, 148.9, 185, 191, 222. 1, 266.1.1, 297, 298.1, 300, 301, 302, 303, 304, 306
Third Revised Leaves Nos. 63, 74.1, 166, 176, 188, 232, 298, 299
Fourth Revised Leaves Nos. 37, 74.2, 87, 94, 144, 148.4, 151, 156.5, 159, 161, 163, 179, 261, 264, 266.3, 296
Fifth Revised Leaves Nos. 3.1, 81, 148.3, 156.2, 156.3, 164, 173, 174, 209, 237, 249, 255, 265, 266.1
Sixth Revised Leaves Nos. 83, 141, 143, 148.2, 218, 263
Seventh Revised Leaves Nos. 82, 84, 148.6, 157, 186, 190, 213, 219, 262, 266
Eighth Revised Leaves Nos. 74, 86, 149, 156.1, 175, 184, 206, 207, 208, 224,
Ninth Revised Leaves Nos. 153, 187, 189
Tenth Revised Leaves Nos. 150, 152, 158, 165, 211, 212
Thirteenth Revised Leaf No. 271
Fourteenth Revised Leaf No. 222
Eighteenth Revised Leaf No. 3
Supplement Nos. 25, 27

Appendix 3

NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

SERVICE CLASSIFICATION NO. 1 - RESIDENTIAL

BASED ON MONTHLY [*128] AVERAGE CONSUMPTION FOR THE RESIDENTIAL CLASS

(Including the impact of the CIP program surcharge and the SIT refund)

	PRESENT	PROPOSED [1]
Billing Charge	$ 2.00	$ 1.07
First 4 CCF or less	$ 13.54	$ 14.98
Next 46 CCF	$ 0.270216	$ 0.373746
Over 50 CCF	$ 0.216906	$ 0.101914

DIFFERENCE

	USAGE Ccf	PRESENT $	PROPOSED $	AMOUNT $	PERCENT %
January	176	$ 233.96	$ 232.00	($ 1.96)	-0.84%
February	169	$ 225.35	$ 223.91	(1.44)	-0.64%
March	149	$ 200.74	$ 200.79	0.05	0.02%
April	114	$ 157.67	$ 160.35	2.68	1.70%
May	67	$ 99.84	$ 106.03	6.19	6.20%
June	33	$ 57.09	$ 62.04	4.95	8.67%
July	21	$ 41.67	$ 44.86	3.19	7.66%
August	20	$ 40.39	$ 43.43	3.04	7.53%
September	24	$ 45.52	$ 49.16	3.64	8.00%
October	43	$ 69.93	$ 76.36	6.43	9.19%
November	76	$ 110.92	$ 116.43	5.51	4.97%
December	130	$ 177.36	$ 178.84	1.48	0.83%
Total	1,022	$ 1,460.44	$ 1,494.20	$ 33.76	2.31%

[*129]

	PRESENT	PROPOSED [2]
Delivery Adjustment	$ 0.004091	$ 0.021046
Gas Supply Charge	$ 0.963443	$ 0.963752
GRT Adjustment	1.6190%	1.6283%
Merchant Function	0.026418	$ 0.050400

NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

RESIDENTIAL

	PRESENT RATES	PROPOSED RATES
FIRST 4 CCF	$ 13.54	$ 15.56
BILLING CHARGE	$ 2.00	$ 1.07
NEXT 46 CCF	$ 0.270216	$ 0.373746
OVER 50 CCF	$ 0.216906	$ 0.101914
MERCHANT FUNCTION CHARGE	$ 0.026418	$ 0.050400
DELIVERY ADJUSTMENT CHARGE	$ 0.004091	$ 0.004480
NATURAL GAS SUPPLY CHARGE	$ 0.963443	$ 0.963752
GRT ADJUSTMENT	1.6190%	1.6283%

DIFFERENCE

USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT $	PERCENT
0	15.79	16.90			1.11	7.03%

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[1] Proposed monthly minimum charge reduced by $.58 for SIT refund credit

- - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - -

[2] Proposed delivery adjustment charge includes $.016566/Ccf surcharge for CIP energy efficiency program

- - - - - - - - - - - - - - - - -End Footnotes- - - - - - - - - - - - - - - - -

	DIFFERENCE					
USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT $	PERCENT
3	18.82	20.01	6.27	6.67	1.19	6.32%
4	19.83	21.04	4.96	5.26	1.21	6.10%
10	27.54	29.53	2.75	2.95	1.99	7.23%
20	40.39	43.68	2.02	2.18	3.29	8.15%
30	53.23	57.83	1.77	1.93	4.60	8.64%
40	66.08	71.98	1.65	1.80	5.90	8.93%
50	78.92	86.13	1.58	1.72	7.21	9.14%
60	91.23	97.52	1.52	1.63	6.29	6.89%
70	103.53	108.91	1.48	1.56	5.38	5.20%
75	109.69	114.60	1.46	1.53	4.91	4.48%
100	140.45	143.07	1.40	1.43	2.62	1.87%
150	201.97	200.01	1.35	1.33	(1.96)	-0.97%
200	263.49	256.95	1.32	1.28	(6.54)	-2.48%
250	325.02	313.89	1.30	1.26	(11.13)	-3.42%
300	386.54	370.83	1.29	1.24	(15.71)	-4.06%
400	509.59	484.71	1.27	1.21	(24.88)	-4.88%
500	632.63	598.59	1.27	1.20	(34.04)	-5.38%
750	940.25	883.29	1.25	1.18	(56.96)	-6.06%
1,000	1,247.86	1,167.99	1.25	1.17	(79.87)	-6.40%
3,000	3,708.79	3,445.57	1.24	1.15	(263.22)	-7.10%
5,000	6,169.71	5,723.16	1.23	1.14	(446.55)	-7.24%
10,000	12,322.02	11,417.12	1.23	1.14	(904.90)	-7.34%

[*130]

NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

LOW INCOME RESIDENTIAL - SC 2

	PRESENT RATES	PROPOSED RATES
FIRST 4 CCF	$ 13.54	$ 15.56
BILLING CHARGE	$ 2.00	$ 1.07
NEXT 46 CCF	$ 0.270216	$ 0.373746
OVER 50 CCF	$ 0.216906	$ 0.101914
LICAAP DISCOUNT	($ 0.186336)	($ 0.223603)
MERCHANT FUNCTION CHARGE	$ 0.026418	$ 0.050400
DELIVERY ADJUSTMENT CHARGE	$ 0.004091	$ 0.004480
NATURAL GAS SUPPLY CHARGE	$ 0.963443	$ 0.963752
GRT ADJUSTMENT	1.3511%	1.2941%

	DIFFERENCE					
USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT $	PERCENT
0	15.75	16.85			1.10	6.98%
1	16.57	17.65	16.57	17.65	1.08	6.52%
3	18.21	19.26	6.07	6.42	1.05	5.77%
5	20.12	21.25	4.02	4.25	1.13	5.62%
7	22.30	23.62	3.19	3.37	1.32	5.92%
8	23.39	24.80	2.92	3.10	1.41	6.03%

					DIFFERENCE	
USAGE	**PRESENT**	**PROPOSED**	**PRESENT**	**PROPOSED**	**AMOUNT**	**PERCENT**
Ccf	**$**	**$**	**$/Ccf**	**$/Ccf**	**$**	
10	25.58	27.17	2.56	2.72	1.59	6.22%
15	31.04	33.09	2.07	2.21	2.05	6.60%
20	36.50	39.01	1.83	1.95	2.51	6.88%
25	41.96	44.93	1.68	1.80	2.97	7.08%
30	47.43	50.85	1.58	1.70	3.42	7.21%
35	52.89	56.77	1.51	1.62	3.88	7.34%
40	58.35	62.69	1.46	1.57	4.34	7.44%
45	63.81	68.61	1.42	1.52	4.80	7.52%
50	69.27	74.53	1.39	1.49	5.26	7.59%
60	79.66	83.61	1.33	1.39	3.95	4.96%
70	90.04	92.70	1.29	1.32	2.66	2.95%
80	100.43	101.78	1.26	1.27	1.35	1.34%
90	110.81	110.87	1.23	1.23	0.06	0.05%
100	121.19	119.95	1.21	1.20	(1.24)	-1.02%
150	173.11	165.38	1.15	1.10	(7.73)	-4.47%
200	225.03	210.81	1.13	1.05	(14.22)	-6.32%
250	276.95	256.24	1.11	1.02	(20.71)	-7.48%
300	328.87	301.66	1.10	1.01	(27.21)	-8.27%
350	380.78	347.09	1.09	0.99	(33.69)	-8.85%
400	432.70	392.52	1.08	0.98	(40.18)	-9.29%
450	484.62	437.95	1.08	0.97	(46.67)	-9.63%
500	536.54	483.37	1.07	0.97	(53.17)	-9.91%
600	640.37	574.23	1.07	0.96	(66.14)	-10.33%
700	744.21	665.08	1.06	0.95	(79.13)	-10.63%
800	848.05	755.94	1.06	0.94	(92.11)	-10.86%
900	951.88	846.79	1.06	0.94	(105.09)	-11.04%
1,000	1,055.72	937.65	1.06	0.94	(118.07)	-11.18%
1,500	1,574.90	1,391.92	1.05	0.93	(182.98)	-11.62%
2,000	2,094.08	1,846.20	1.05	0.92	(247.88)	-11.84%

[*131]

NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

EBD LOW INCOME RESIDENTIAL - SC 2A

	PRESENT RATES	**PROPOSED RATES**
FIRST 4 CCF	$ 9.23	$ 9.25
OVER 4 CCF	$ 0.075752	$ 0.057735
MERCHANT FUNCTION CHARGE	$ 0.026418	$ 0.050400
DELIVERY ADJUSTMENT CHARGE	$ 0.004091	$ 0.004480
NATURAL GAS SUPPLY CHARGE	$ 0.963443	$ 0.963752
GRT ADJUSTMENT	1.2891%	1.3000%

					DIFFERENCE	
USAGE	**PRESENT**	**PROPOSED**	**PRESENT**	**PROPOSED**	**AMOUNT**	**PERCENT**
Ccf	**$**	**$**	**$/Ccf**	**$/Ccf**	**$**	
0	9.35	9.37			0.02	0.21%
1	10.36	10.40	10.36	10.40	0.04	0.39%

	DIFFERENCE					
USAGE	**PRESENT**	**PROPOSED**	**PRESENT**	**PROPOSED**	**AMOUNT**	**PERCENT**
Ccf	**$**	**$**	**$/Ccf**	**$/Ccf**	**$**	
3	12.37	12.47	4.12	4.16	0.10	0.81%
5	14.46	14.59	2.89	2.92	0.13	0.90%
7	16.63	16.77	2.38	2.40	0.14	0.84%
8	17.71	17.86	2.21	2.23	0.15	0.85%
10	19.88	20.04	1.99	2.00	0.16	0.80%
15	25.29	25.49	1.69	1.70	0.20	0.79%
20	30.71	30.94	1.54	1.55	0.23	0.75%
25	36.13	36.40	1.45	1.46	0.27	0.75%
30	41.55	41.85	1.39	1.40	0.30	0.72%
35	46.96	47.30	1.34	1.35	0.34	0.72%
40	52.38	52.75	1.31	1.32	0.37	0.71%
45	57.80	58.20	1.28	1.29	0.40	0.69%
50	63.22	63.65	1.26	1.27	0.43	0.68%
60	74.05	74.56	1.23	1.24	0.51	0.69%
70	84.89	85.46	1.21	1.22	0.57	0.67%
80	95.72	96.37	1.20	1.20	0.65	0.68%
90	106.56	107.27	1.18	1.19	0.71	0.67%
100	117.39	118.17	1.17	1.18	0.78	0.66%
150	171.57	172.69	1.14	1.15	1.12	0.65%
200	225.74	227.21	1.13	1.14	1.47	0.65%
250	279.92	281.73	1.12	1.13	1.81	0.65%
300	334.09	336.24	1.11	1.12	2.15	0.64%
350	388.26	390.76	1.11	1.12	2.50	0.64%
400	442.44	445.28	1.11	1.11	2.84	0.64%
450	496.61	499.80	1.10	1.11	3.19	0.64%
500	550.79	554.32	1.10	1.11	3.53	0.64%
600	659.14	663.35	1.10	1.11	4.21	0.64%
700	767.49	772.39	1.10	1.10	4.90	0.64%
800	875.84	881.42	1.09	1.10	5.58	0.64%
900	984.19	990.46	1.09	1.10	6.27	0.64%
1,000	1,092.541,099.50	1.09	1.10	6.96	0.64%	
1,500	1,634.281,644.68	1.09	1.10	10.40	0.64%	
2,000	2,176.032,189.86	1.09	1.09	13.83	0.64%	

[*132]

NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

GENERAL - SC 3

	PRESENT RATES	**PROPOSED RATES**
FIRST 10 CCF	$ 17.55	$ 17.90
BILLING CHARGE	$ 2.00	$ 1.07
NEXT 490 CCF	$ 0.257806	$ 0.252106
NEXT 9,500 CCF	$ 0.199656	$ 0.195043
BALANCE	$ 0.162309	$ 0.156940
MERCHANT FUNCTION CHARGE	$ 0.002929	$ 0.023880
REVENUE CREDIT	$ 0.000000	$ 0.000000
DELIVERY ADJUSTMENT CHARGE	$ 0.004091	$ 0.004480
NATURAL GAS SUPPLY CHARGE	$ 0.963443	$ 0.963752

	PRESENT RATES	PROPOSED RATES
GRT ADJUSTMENT	0.9684%	0.9684%

					DIFFERENCE	
USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT $	PERCENT
0	19.74	19.15			(0.59)	-2.99%
1	20.72	20.16	20.72	20.16	(0.56)	-2.70%
3	22.68	22.16	7.56	7.39	(0.52)	-2.29%
5	24.64	24.16	4.93	4.83	(0.48)	-1.95%
7	26.60	26.17	3.80	3.74	(0.43)	-1.62%
8	27.58	27.17	3.45	3.40	(0.41)	-1.49%
10	29.54	29.17	2.95	2.92	(0.37)	-1.25%
15	35.74	35.45	2.38	2.36	(0.29)	-0.81%
20	41.94	41.73	2.10	2.09	(0.21)	-0.50%
25	48.14	48.01	1.93	1.92	(0.13)	-0.27%
30	54.34	54.30	1.81	1.81	(0.04)	-0.07%
35	0.54	60.58	1.73	1.73	0.04	0.07%
40	66.74	66.86	1.67	1.67	0.12	0.18%
45	72.94	73.14	1.62	1.63	0.20	0.27%
50	79.14	79.42	1.58	1.59	0.28	0.35%
60	91.55	91.98	1.53	1.53	0.43	0.47%
70	103.95	104.55	1.49	1.49	0.60	0.58%
80	116.35	117.11	1.45	1.46	0.76	0.65%
90	128.75	129.67	1.43	1.44	0.92	0.71%
100	141.15	142.23	1.41	1.42	1.08	0.77%
200	265.17	267.86	1.33	1.34	2.69	1.01%
300	389.19	393.49	1.30	1.31	4.30	1.10%
400	513.20	519.12	1.28	1.30	5.92	1.15%
500	637.22	644.74	1.27	1.29	7.52	1.18%
600	755.36	764.61	1.26	1.27	9.25	1.22%
700	873.51	884.47	1.25	1.26	10.96	1.25%
800	991.65	1,004.34	1.24	1.26	12.69	1.28%
900	1,109.80	1,124.20	1.23	1.25	14.40	1.30%
1,000	1,227.94	1,244.07	1.23	1.24	16.13	1.31%
5,000	5,953.74	6,038.67	1.19	1.21	84.93	1.43%
10,000	11,861.0012,	031.93	1.19	1.20	170.93	1.44%
15,000	17,579.70	17,832.83	1.17	1.19	253.13	1.44%
20,000	23,298.41	23,633.73	1.16	1.18	335.32	1.44%
25,000	29,017.12	29,434.63	1.16	1.18	417.51	1.44%
50,000	57,610.66	58,439.12	1.15	1.17	828.46	1.44%

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NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

TC-1.1 MMT (5,000 - 25,000 MCF)

	PRESENT RATES	PROPOSED RATES
FIRST 10 CCF	$ 321.94	$ 322.45
BILLING CHARGE	$ 2.00	$ 1.07
BALANCE	$ 0.138672	$ 0.143922

	PRESENT RATES	PROPOSED RATES
TRANSPORTATION CHARGE	$ 0.004091	$ 0.004480
GRT ADJUSTMENT	0.9684%	0.9684%

USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	DIFFERENCE AMOUNT $	PERCENT
5,000	1,046.40	1,074.40			28.00	2.68%
5,500	1,118.48	1,149.31	0.20	0.21	30.83	2.76%
6,000	1,190.55	1,224.23	0.20	0.20	33.68	2.83%
6,500	1,262.62	1,299.15	0.19	0.20	36.53	2.89%
7,000	1,334.70	1,374.07	0.19	0.20	39.37	2.95%
7,500	1,406.77	1,448.99	0.19	0.19	42.22	3.00%
8,000	1,478.84	1,523.91	0.18	0.19	45.07	3.05%
8,500	1,550.91	1,598.83	0.18	0.19	47.92	3.09%
9,000	1,622.99	1,673.75	0.18	0.19	50.76	3.13%
9,500	1,695.06	1,748.67	0.18	0.18	53.61	3.16%
10,000	1,767.13	1,823.59	0.18	0.18	56.46	3.20%
10,500	1,839.20	1,898.51	0.18	0.18	59.31	3.22%
11,000	1,911.28	1,973.43	0.17	0.18	62.15	3.25%
11,500	1,983.35	2,048.35	0.17	0.18	65.00	3.28%
12,000	2,055.42	2,123.27	0.17	0.18	67.85	3.30%
12,500	2,127.50	2,198.19	0.17	0.18	70.69	3.32%
13,000	2,199.57	2,273.11	0.17	0.17	73.54	3.34%
13,500	2,271.64	2,348.03	0.17	0.17	76.39	3.36%
14,000	2,343.71	2,422.95	0.17	0.17	79.24	3.38%
14,500	2,415.79	2,497.87	0.17	0.17	82.08	3.40%
15,000	2,487.86	2,572.79	0.17	0.17	84.93	3.41%
15,500	2,559.93	2,647.71	0.17	0.17	87.78	3.43%
16,000	2,632.01	2,722.63	0.16	0.17	90.62	3.44%
16,500	2,704.08	2,797.55	0.16	0.17	93.47	3.46%
17,000	2,776.15	2,872.46	0.16	0.17	96.31	3.47%
17,500	2,848.22	2,947.38	0.16	0.17	99.16	3.48%
18,000	2,920.30	3,022.30	0.16	0.17	102.00	3.49%
18,500	2,992.37	3,097.22	0.16	0.17	104.85	3.50%
19,000	3,064.44	3,172.14	0.16	0.17	107.70	3.51%
19,500	3,136.51	3,247.06	0.16	0.17	110.55	3.52%
20,000	3,208.59	3,321.98	0.16	0.17	113.39	3.53%
20,500	3,280.66	3,396.90	0.16	0.17	116.24	3.54%
21,000	3,352.73	3,471.82	0.16	0.17	119.09	3.55%
21,500	3,424.81	3,546.74	0.16	0.16	121.93	3.56%
22,000	3,496.88	3,621.66	0.16	0.16	124.78	3.57%
22,500	3,568.95	3,696.58	0.16	0.16	127.63	3.58%
23,000	3,641.02	3,771.50	0.16	0.16	130.48	3.58%
23,500	3,713.10	3,846.42	0.16	0.16	133.32	3.59%
24,000	3,785.17	3,921.34	0.16	0.16	136.17	3.60%
24,500	3,857.24	3,996.26	0.16	0.16	139.02	3.60%
25,000	3,929.31	4,071.18	0.16	0.16	141.87	3.61%
50,000	7,532.95	7,817.16	0.15	0.16	284.21	3.77%

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NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

TC-2 MMT (25,000 - 55,000 MCF)

	PRESENT RATES	PROPOSED RATES
FIRST 10 CCF	$ 705.83	$ 716.84
BILLING CHARGE	$ 2.00	$ 1.07
BALANCE	$ 0.105772	$ 0.110284
TRANSPORTATION CHARGE	$ 0.000491	$ 0.000880
GRT ADJUSTMENT	0.9684%	0.9684%

					DIFFERENCE	
USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT	PERCENT
24,000	3,288.63	3,417.52			128.89	3.92%
24,500	3,342.27	3,473.64	0.14	0.14	131.37	3.93%
25,000	3,395.92	3,529.76	0.14	0.14	133.84	3.94%
25,500	3,449.56	3,585.88	0.14	0.14	136.32	3.95%
26,000	3,503.21	3,642.00	0.13	0.14	138.79	3.96%
26,500	3,556.86	3,698.12	0.13	0.14	141.26	3.97%
27,000	3,610.50	3,754.24	0.13	0.14	143.74	3.98%
27,500	3,664.15	3,810.36	0.13	0.14	146.21	3.99%
28,000	3,717.79	3,866.48	0.13	0.14	148.69	4.00%
28,500	3,771.44	3,922.60	0.13	0.14	151.16	4.01%
29,000	3,825.09	3,978.72	0.13	0.14	153.63	4.02%
29,500	3,878.73	4,034.84	0.13	0.14	156.11	4.02%
30,000	3,932.38	4,090.96	0.13	0.14	158.58	4.03%
31,000	4,039.67	4,203.20	0.13	0.14	163.53	4.05%
32,000	4,146.96	4,315.45	0.13	0.13	168.49	4.06%
33,000	4,254.25	4,427.69	0.13	0.13	173.44	4.08%
34,000	4,361.55	4,539.93	0.13	0.13	178.38	4.09%
35,000	4,468.84	4,652.17	0.13	0.13	183.33	4.10%
36,000	4,576.13	4,764.41	0.13	0.13	188.28	4.11%
37,000	4,683.42	4,876.65	0.13	0.13	193.23	4.13%
38,000	4,790.71	4,988.89	0.13	0.13	198.18	4.14%
39,000	4,898.01	5,101.13	0.13	0.13	203.12	4.15%
40,000	5,005.30	5,213.37	0.13	0.13	208.07	4.16%
41,000	5,112.59	5,325.61	0.12	0.13	213.02	4.17%
42,000	5,219.88	5,437.85	0.12	0.13	217.97	4.18%
43,000	5,327.17	5,550.09	0.12	0.13	222.92	4.18%
44,000	5,434.47	5,662.33	0.12	0.13	227.86	4.19%
45,000	5,541.76	5,774.57	0.12	0.13	232.81	4.20%
46,000	5,649.05	5,886.81	0.12	0.13	237.76	4.21%
47,000	5,756.34	5,999.05	0.12	0.13	242.71	4.22%
48,000	5,863.64	6,111.29	0.12	0.13	247.65	4.22%
49,000	5,970.93	6,223.53	0.12	0.13	252.60	4.23%
50,000	6,078.22	6,335.77	0.12	0.13	257.55	4.24%
51,000	6,185.51	6,448.01	0.12	0.13	262.50	4.24%
52,000	6,292.80	6,560.26	0.12	0.13	267.46	4.25%
53,000	6,400.10	6,672.50	0.12	0.13	272.40	4.26%
54,000	6,507.39	6,784.74	0.12	0.13	277.35	4.26%
55,000	6,614.68	6,896.98	0.12	0.13	282.30	4.27%

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NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

TC-3 MMT (55,000 - 150,000 MCF)

	PRESENT RATES	PROPOSED RATES
FIRST 10 CCF	$ 1,713.42	$ 1,730.42
BILLING CHARGE	$ 2.00	$ 1.07
BALANCE	$ 0.075112	$ 0.079559
TRANSPORTATION CHARGE	$ 0.000491	$ 0.000880
GRT ADJUSTMENT	0.9684%	0.9683%

DIFFERENCE						
USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT $	PERCENT
54,000	5,853.37	6,133.22			279.85	4.78%
55,000	5,929.71	6,214.44	0.11	0.11	284.73	4.80%
56,000	6,006.04	6,295.65	0.11	0.11	289.61	4.82%
57,000	6,082.38	6,376.87	0.11	0.11	294.49	4.84%
58,000	6,158.71	6,458.09	0.11	0.11	299.38	4.86%
59,000	6,235.05	6,539.31	0.11	0.11	304.26	4.88%
60,000	6,311.38	6,620.53	0.11	0.11	309.15	4.90%
62,500	6,502.22	6,823.57	0.10	0.11	321.35	4.94%
65,000	6,693.06	7,026.62	0.10	0.11	333.56	4.98%
67,500	6,883.90	7,229.66	0.10	0.11	345.76	5.02%
70,000	7,074.73	7,432.71	0.10	0.11	357.98	5.06%
72,500	7,265.57	7,635.75	0.10	0.11	370.18	5.09%
75,000	7,456.41	7,838.79	0.10	0.10	382.38	5.13%
77,500	7,647.25	8,041.84	0.10	0.10	394.59	5.16%
80,000	7,838.08	8,244.88	0.10	0.10	406.80	5.19%
82,500	8,028.92	8,447.93	0.10	0.10	419.01	5.22%
85,000	8,219.76	8,650.97	0.10	0.10	431.21	5.25%
87,500	8,410.60	8,854.02	0.10	0.10	443.42	5.27%
90,000	8,601.44	9,057.06	0.10	0.10	455.62	5.30%
92,500	8,792.27	9,260.11	0.10	0.10	467.84	5.32%
95,000	8,983.11	9,463.15	0.09	0.10	480.04	5.34%
97,500	9,173.95	9,666.20	0.09	0.10	492.25	5.37%
100,000	9,364.79	9,869.24	0.09	0.10	504.45	5.39%
105,000	9,746.46	10,275.33	0.09	0.10	528.87	5.43%
110,000	10,128.14	10,681.42	0.09	0.10	553.28	5.46%
115,000	10,509.81	11,087.51	0.09	0.10	577.70	5.50%
120,000	10,891.49	11,493.60	0.09	0.10	602.11	5.53%
125,000	11,273.17	11,899.69	0.09	0.10	626.52	5.56%
130,000	11,654.84	12,305.78	0.09	0.09	650.94	5.59%
135,000	12,036.52	12,711.87	0.09	0.09	675.35	5.61%
140,000	12,418.19	13,117.96	0.09	0.09	699.77	5.64%
145,000	12,799.87	13,524.05	0.09	0.09	724.18	5.66%
150,000	13,181.54	13,930.14	0.09	0.09	748.60	5.68%
155,000	13,563.22	14,336.23	0.09	0.09	773.01	5.70%
160,000	13,944.90	14,742.32	0.09	0.09	797.42	5.72%
350,000	28,448.57	30,173.71	0.08	0.09	1,725.14	6.06%

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NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

TC-4 MMT (> 150,000 MCF)

	PRESENT RATES	PROPOSED RATES
FIRST 10 CCF	$ 3,696.30	$ 3,828.15
BILLING CHARGE	$ 2.00	$ 1.07
BALANCE	$ 0.033952	$ 0.031772
TRANSPORTATION CHARGE	$ 0.000491	($ 0.000373)
GRT ADJUSTMENT	0.9684%	0.9684%

DIFFERENCE						
USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT $	PERCENT
150,000	8,950.25	8,621.44			(328.81)	-3.67%
155,000	9,124.14	8,779.96	0.06	0.06	(344.18)	-3.77%
160,000	9,298.02	8,938.47	0.06	0.06	(359.55)	-3.87%
165,000	9,471.90	9,096.99	0.06	0.06	(374.91)	-3.96%
170,000	9,645.78	9,255.50	0.06	0.05	(390.28)	-4.05%
175,000	9,819.67	9,414.02	0.06	0.05	(405.65)	-4.13%
180,000	9,993.55	9,572.53	0.06	0.05	(421.02)	-4.21%
185,000	10,167.43	9,731.05	0.05	0.05	(436.38)	-4.29%
190,000	10,341.32	9,889.56	0.05	0.05	(451.76)	-4.37%
195,000	10,515.20	10,048.08	0.05	0.05	(467.12)	-4.44%
200,000	10,689.08	10,206.59	0.05	0.05	(482.49)	-4.51%
205,000	10,862.96	10,365.11	0.05	0.05	(497.85)	-4.58%
210,000	11,036.85	10,523.63	0.05	0.05	(513.22)	-4.65%
215,000	11,210.73	10,682.14	0.05	0.05	(528.59)	-4.72%
220,000	11,384.61	10,840.66	0.05	0.05	(543.95)	-4.78%
225,000	11,558.49	10,999.17	0.05	0.05	(559.32)	-4.84%
230,000	11,732.38	11,157.69	0.05	0.05	(574.69)	-4.90%
235,000	11,906.26	11,316.20	0.05	0.05	(590.06)	-4.96%
240,000	12,080.14	11,474.72	0.05	0.05	(605.42)	-5.01%
245,000	12,254.03	11,633.23	0.05	0.05	(620.80)	-5.07%
250,000	12,427.91	11,791.75	0.05	0.05	(636.16)	-5.12%
260,000	12,775.67	12,108.78	0.05	0.05	(666.89)	-5.22%
270,000	13,123.44	12,425.81	0.05	0.05	(697.63)	-5.32%
280,000	13,471.20	12,742.84	0.05	0.05	(728.36)	-5.41%
290,000	13,818.97	13,059.87	0.05	0.05	(759.10)	-5.49%
300,000	14,166.74	13,376.90	0.05	0.04	(789.84)	-5.58%
350,000	15,905.56	14,962.06	0.05	0.04	(943.50)	-5.93%
400,000	17,644.39	16,547.21	0.04	0.04	(1,097.18)	-6.22%
450,000	19,383.22	18,132.36	0.04	0.04	(1,250.86)	-6.45%
500,000	21,122.04	19,717.52	0.04	0.04	(1,404.52)	-6.65%
1,700,000	62,853.90	57,761.20	0.04	0.03	(5,092.70)	-8.10%

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NATIONAL FUEL GAS DISTRIBUTION CORPORATION NEW YORK DIVISION

COMPARISON OF MONTHLY BILLS

TC-4.1 MMT (> 150,000 MCF)

	PRESENT RATES	PROPOSED RATES
FIRST 10 CCF	$ 3,365.80	$ 3,828.21
BILLING CHARGE	$ 2.00	$ 1.07

	PRESENT RATES	PROPOSED RATES
BALANCE	$ 0.052932	$ 0.055170
TRANSPORTATION CHARGE	$ 0.000491	$ 0.000880
GRT ADJUSTMENT	0.9684%	0.9684%

DIFFERENCE

USAGE Ccf	PRESENT $	PROPOSED $	PRESENT $/Ccf	PROPOSED $/Ccf	AMOUNT $	PERCENT
150,000	11,490.93	12,354.72			863.79	7.52%
155,000	11,760.63	12,637.69	0.08	0.08	877.06	7.46%
160,000	12,030.34	12,920.65	0.08	0.08	890.31	7.40%
165,000	12,300.04	13,203.62	0.07	0.08	903.58	7.35%
170,000	12,569.74	13,486.58	0.07	0.08	916.84	7.29%
175,000	12,839.44	13,769.54	0.07	0.08	930.10	7.24%
180,000	13,109.14	14,052.51	0.07	0.08	943.37	7.20%
185,000	13,378.84	14,335.47	0.07	0.08	956.63	7.15%
190,000	13,648.55	14,618.44	0.07	0.08	969.89	7.11%
195,000	13,918.25	14,901.40	0.07	0.08	983.15	7.06%
200,000	14,187.95	15,184.36	0.07	0.08	996.41	7.02%
205,000	14,457.65	15,467.33	0.07	0.08	1,009.68	6.98%
210,000	14,727.35	15,750.29	0.07	0.08	1,022.94	6.95%
215,000	14,997.05	16,033.26	0.07	0.07	1,036.21	6.91%
220,000	15,266.76	16,316.22	0.07	0.07	1,049.46	6.87%
225,000	15,536.46	16,599.18	0.07	0.07	1,062.72	6.84%
230,000	15,806.16	16,882.15	0.07	0.07	1,075.99	6.81%
235,000	16,075.86	17,165.11	0.07	0.07	1,089.25	6.78%
240,000	16,345.56	17,448.07	0.07	0.07	1,102.51	6.75%
245,000	16,615.26	17,731.04	0.07	0.07	1,115.78	6.72%
250,000	16,884.97	18,014.00	0.07	0.07	1,129.03	6.69%
260,000	17,424.37	18,579.93	0.07	0.07	1,155.56	6.63%
270,000	17,963.77	19,145.86	0.07	0.07	1,182.09	6.58%
280,000	18,503.18	19,711.79	0.07	0.07	1,208.61	6.53%
290,000	19,042.58	20,277.71	0.07	0.07	1,235.13	6.49%
300,000	19,581.98	20,843.64	0.07	0.07	1,261.66	6.44%
350,000	22,279.00	23,673.28	0.06	0.07	1,394.28	6.26%
400,000	24,976.02	26,502.92	0.06	0.07	1,526.90	6.11%
450,000	27,673.04	29,332.56	0.06	0.07	1,659.52	6.00%
500,000	30,370.05	32,162.20	0.06	0.06	1,792.15	5.90%
1,700,000	95,098.47	100,073.55	0.06	0.06	4,975.08	5.23%

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