

SUSPENSION

National Fuel

Ronald J. Tanski
President and Chief Executive Officer

June 17, 2013

Honorable Betty Jean Grant
Chairwoman
Erie County Legislature
790 East Delavan Avenue
Buffalo, NY 14216

Dear Honorable Chairwoman:

Both Patrick Kelly and I received your invitation to discuss National Fuel Gas Distribution Corporation's ("National Fuel") pending proceeding with the New York State Public Service Commission ("PSC") at the Erie County Legislative Work session on June 20, 2013. I'm sure that you are aware that the PSC issued an order on June 14, 2013, declaring that National Fuel's rates be made temporary. The next phase of the PSC proceeding, unless settled, will involve an exhaustive review of National Fuel's utility rates. Typical rate proceedings are scheduled to take place in an open and transparent process over an eleven month period. Much of the detailed data and testimony involved in those proceedings will be publicly available from the PSC's website.

We respectfully decline your invitation to send a National Fuel representative to your June 20th meeting. Much of the text of proposed Erie County Legislative Resolution 10-7 has been rendered moot by the PSC's June 14th Order. More importantly, however, the drafting and the tenor of the proposed resolution is inaccurate and completely mischaracterizes the current situation. At no point in this proceeding has the PSC alleged that National Fuel "...has been overcharging its customers following the 2007 Rate Order..." Within the few hours between a morning work session and the Legislature's afternoon meeting, it is highly improbable that we could synthesize months and months of PSC procedural history and the mechanics of rate proceedings and rate-of-return calculations that would be useful to the Legislature in considering its proposed Resolution 10-7.

I have included, however, a short memorandum that succinctly sets forth National Fuel's position on this matter.

Very truly yours,



RJT:smb
Enclosure

cc: Honorable John J. Mills, Minority Leader, Erie County Legislature ✓

NATIONAL FUEL GAS DISTRIBUTION CORPORATION
MEMORANDUM IN OPPOSITION
Erie County Legislature Resolution 10-7

National Fuel Gas Distribution Corporation is a Buffalo-headquartered, gas-only, distribution company serving eleven counties in Western New York including the Buffalo metropolitan area and Niagara Falls, and extending south to Pennsylvania and east nearly to the Finger Lakes. There are approximately 1.22 million residents in the New York service territory, most of whom receive the benefits of natural gas service under a National Fuel account.

Although customers know National Fuel as the local utility, the company is part of a larger enterprise that, from its headquarters in metro Buffalo, operates four business segments located in five states. With more than 1,100 employees in New York, the National Fuel companies are among the largest taxpayers in Erie County and, according to the Department of Labor, generate an economic multiplier of more than 5.0. As one of the few major publicly-traded corporations left in WNY, and one of the few remaining U.S. owned utilities in New York State, National Fuel Gas Company is a positive presence in the community, economically and philanthropically.

We strongly oppose Resolution 10-7 and what it implies. The very idea that this company, with its headquarters and hundreds of employees in the same communities we serve, would deliberately “overcharge” its customers is both wrong and offensive. We charge the same lawful rate that was approved by the Public Service Commission (“the Commission”) in 2007. Furthermore, we have invested \$190 million since 2007 in our New York Utility system for new and replacement infrastructure, reflecting our long-term commitment to the area and to safe, reliable service.

While our rates are unchanged over this period, every other utility in the state has raised its rates, in some cases on multiple occasions, over the same period. Indeed, the *only* increase in our delivery charges since 2007 was the result of taxes imposed by the state. The Commission, itself, has stated publicly that National Fuel performed admirably and has “done nothing wrong.” These are the facts.

What is really happening is that the proceeding National Fuel and the Commission are engaged in is routine and is being conducted in an open and transparent manner with documents, testimony and proposals readily available on the Commission website.

The dispute between National Fuel and the Commission is about the level of earnings allowed in rates. This is a normal and routine occurrence in all rate matters involving all utilities.

Resolution 10-7 states that National Fuel ratepayers are underwriting “excess profits.” National Fuel disagrees that its earnings are “excessive” because other utilities have earned, or are earning, similar amounts in New York and in other states. If National Fuel is considered by this body to have rates that are “too high,” then every utility is over charging. National Fuel

disagrees strongly with that assertion. In fact, the steady delivery rates combined with decreasing gas commodity prices have resulted in a 38 percent *decline* in the average annual bill for residential customers since the end of 2007. Moreover, any increased earnings by National Fuel were achieved only through efficiency measures within the company. The Company's earnings are not a windfall. Every utility that does a good job of cutting costs and applying efficiencies earns above the rate of return embedded in its rates.

It is worth emphasizing that National Fuel's residential delivery rates have not increased in more than five years, and are currently the *lowest in the state*. Customer bills reflect that rate. This is not "overcharging." Further, in March, National Fuel submitted a proposal to the Commission which would have fixed the Company's low delivery charges for an additional three years. The proposal also presented various options to share cost savings with customers ranging from increased assistance to low-income customers to economic development grants to businesses or community-based organizations, rationalizing the process for natural gas system expansions in remote areas and accelerating infrastructure and modernization along with storm hardening upgrades in flood-prone areas. We believed then, and continue to believe now, that the Company's proposal – tailored for Western New York – would provide greater benefits for our customers than what might be decided for us by Albany regulators.

Resolution 10-7 misrepresents National Fuel's "double digit profits" in referring to a February 8, 2013 earnings call to indicate that "overearnings" are driving profits. As noted above, National Fuel Gas Distribution Corporation, often referred to as "The Utility," is one subsidiary of National Fuel Gas Company. Increased earnings by National Fuel Gas Company can be attributed to each company subsidiary and suggestions that National Fuel Gas Company's profits are solely tied to residential gas bill are inaccurate and misleading.

Finally, Resolution 10-7 is outdated as the proceeding's evidentiary hearings have already occurred and the Commission, at its session held in Albany on June 13, 2013, established the temporary rates that it wanted. While we disagree with that decision, we will continue to work with Commission Staff and other parties to produce a rate plan that meets all the necessary legal requirements.

For the foregoing reasons, we urge that Resolution 10-7 be rejected by the Erie County Legislature.