

STATE OF NEW YORK

GAS RESTRUCTURING PROCEEDING

PART 1 - Generally Applicable Comments

PART 2 - Company Specific Summary

Summary of Comments Re: Utility Compliance Filings in:

CASE: 93-G-0932- Proceeding on Motion of the Commission to Address Issues Associated with the Restructuring of the Emerging Competitive Natural Gas Market.

Individual Compliance Case Numbers:

CASE: 95-G-1032- Compliance Filing of Long Island Lighting Company

CASE: 95-G-1035- Compliance Filing of Rochester Gas and Electric Corporation

CASE: 95-G-1039- Compliance Filing of Central Hudson Gas & Electric Corporation

CASE: 95-G-1040- Compliance Filing of Orange and Rockland Utilities Inc.

CASE: 95-G-1041- Compliance Filing of New York State Electric & Gas Corporation

CASE: 95-G-1042- Compliance Filing of National Fuel Gas Distribution Corporation

CASE: 95-G-1046- Compliance Filing of Brooklyn Union Gas Company

CASE: 95-G-1048- Compliance Filing of Niagara Mohawk Power Corporation

CASE: 95-G-1053- Compliance Filing of St. Lawrence Gas Company, Inc.

CASE: 95-G-1054- Compliance Filing of Corning Natural Gas Corporation

CASE: 95-G-1055- Compliance Filing of Consolidated Edison Company of New York, Inc.

CONSUMER PROTECTION ISSUES

PULP notes that consumers still need to be protected from unfair billing and collection practices. It says that experimental aggregation proposals should go forward as soon as staff and interested parties are able to establish a "transportation customer bill of rights" but residential aggregation programs must not proceed until a careful analysis of consumer protections is completed. It notes that the residential consumer protections are largely statutory and that it intends to work actively with staff and other interested parties to assess the feasibility of going forward with residential aggregation programs while continuing to maintain the statutory protections.

The Coalition asserts that educational materials for consumers outlining the issue should be developed under the auspices of the Commission and sent to all customers eligible for unbundling.

New York residential and non-residential consumers of natural gas services will see the market opened to competition under the new unbundled service tariffs. Existing consumer protections, such as those provided by law, rules or tariffs will remain in force for the LDC component, local transportation, of the services rendered. The portion of the service resulting from the new relationships among the marketer, the local distribution company, and the customer will be based on contractual agreements, tariff provisions and good customer service principles.

The State Consumer Protection Board recommends that non-utility suppliers be required to comply with the Home Energy Fair Practices Act (HEFPA) or an equivalent and to that effect the Commission approve tariffs for marketers in individual franchise territories. CPB continues by stating that although aggregators/marketers argued that requiring consumer protections will stifle competition by deterring participation, it is their belief that requiring customers to sign away their rights will have the same effect. CPB also asserts that these protections need not necessarily duplicate HEFPA but at the very least, they should offer minimal consumer protections.

PULP agrees with CPB that non-utility suppliers should be required to comply with HEFPA. PULP continues by stating that gas marketers and aggregators are "Gas Corporations" under the plain meaning of Public Service Law and that the Commission has no discretion to waive HEFPA compliance by gas marketers and aggregators.

Enron, KCS Energy Marketing Co., Norstar Energy, L.P., and Tenneco declare that the critical threshold issue of jurisdiction must be resolved. They continue by saying that they strongly oppose the assertion of jurisdiction by the Commission over gas marketers and the contracts they enter into with their customers. They also state that the Commission should not rely on the broad definitions of "Gas Corporation" and "Gas Plant" under the Public Service Law as advocated by PULP.

ESPA agrees with Enron, Norstar and TGMC adding that PULP analysis is incorrect and, if adopted, would severely hamper, if not totally inhibit, the development of competition in

the provision of natural gas in the state. ESPA also states that a reasonable interpretation of the statute must infer some restraints on the scope of the Commission's jurisdiction.

The Coalition states that it understands the consumer protection impetus behind the suggestion that marketers have a standard contract on file with staff; but that such a requirement strongly implies Commission jurisdiction over marketers. It disagrees with PULP's claim of jurisdiction and urges the Commission to make a finding rejecting this contention, and confirms marketers' unregulated status. Finally, the Coalition states that a competitive market is truly the best form of consumer protection and once consumers learn that they can quickly find another source of supply, if they are not satisfied with service from a particular supplier, they will readily recognize that competition's benefits go beyond price, to customer service.

Residential Service

Protections for residential customers of LDC's will remain in effect. Staff issued a Discussion Paper and facilitated an open meeting which centered in part upon minimum requirements which it found necessary to insure that customers aggregated services were provided with adequate safeguards. Comments received from parties fell into two categories: those that argued for the full protection of the law and that rules must apply also to customers of marketers and those that insisted that the imposition of complicated requirements to obtain

transportation services is, in effect, an effort to regulate marketers that would deter the evolution of competition.

National Fuel states that further analysis is necessary to sort out the issue regarding customer billing and shut-off procedures. It continues by noting that it believes that the better course is to allow utilities and marketers to proceed with the development of aggregation programs by implementing small-scale pilots. It also affirms that National Fuel assumes that no responsible utility or marketer would, at this juncture, submit a proposed residential aggregation pilot that did not preserve the expected level of consumer protections.

Niagara Mohawk declares that it should not be forced to serve as an enforcement arm for the Commission in assuring that marketers adhere to the rules.

PULP notes that the Commission has no discretion to waive HEFPA compliance by gas marketers and aggregators or the statutory rights and remedies that residential customers have under the law and rules. It continues by stating that Commission acquiescence to or approval of contract language advising customers of protections that have been waived would be tantamount to abandonment of its statutory obligations, for example, to resolve customer billing complaints under section 43 of the Public Service Law.