

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 05-M-0090 – In the Matter of the System Benefits Charge III

RESPONSE OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION
IN RESPONSE TO
NOTICE SOLICITING COMMENTS

On August 31, 2005, the Public Service Commission (“Commission”) issued a notice in the above-referenced proceeding requesting comments on the “Staff Proposal for the Extension of the System Benefits Charge (SBC) and the SBC- Funded Public Benefit Programs” dated August 30, 2005 (“Staff Proposal”). For its response to the Notice, National Fuel Gas Distribution Corporation (“Distribution” or the “Company”) submits the instant Comments.

Distribution is a gas-only utility serving approximately 500,000 customers in western New York State. In comments submitted by Distribution in response to a previous notice issued in this proceeding,¹ the Company argued that a gas SBC charge was unnecessary and possibly counterproductive, given the very real differences between the effects of competition in the gas and electric industries. The Company further observed that to the extent some believe that current mechanisms applied by gas utilities inadequately fund environmental and other public benefit programs – a charge not supported by experience – the electric SBC can fairly be utilized as an additional funding source. This would obviate any need to burden the state’s gas customers – almost all of which are electric customers too – with a second SBC for gas.

¹ Case 05-M-0090 – In the Matter of the System Benefits Charge, *Notice Soliciting Comments* (issued January 28, 2005).

The Staff Proposal recommends that the Commission essentially table the issue of SBC funding for gas programs and the related issue of a gas SBC pending the completion of a “Gas Statewide Study.” (Staff Proposal at 20). Beyond that recommendation, the Staff Proposal limits its analysis of gas issues to a summary of the parties’ comments, which were mixed. Id. Therefore, Distribution has no further remarks on gas issues at this time.

With respect to electric issues, however, Distribution supports Staff’s recommendation to consolidate and simplify the multiplicity of NYSERDA programs. Staff Proposal at 16. NYSERDA is a sizable authority, offering a great number of programs under different titles, categories, headings and other sometimes vaguely distinguishing criteria. In order to assure broad public (and industry) support for continuation of the electric SBA – essentially a one billion-dollar tax on customer bills over eight years – any measure to make NYSERDA’s offerings more “user friendly” should be regarded as a basic minimum requirement. Distribution notes, too, that for the very same reasons, NYSERDA’s gas conservation and public benefit programs should be included in the same effort toward simplicity and consolidation. Customers may receive separate charges for gas and electric service, often from separate utilities, but there is a growing recognition that customers regard those charges as contributing to the same, largely indistinguishable, whole-house “energy cost burden.” (See Staff Proposal at 14, bullet item 2). Creating a separate and distinct billing and administration infrastructure for gas-only programs billed to the same customers, administered by the same authority and regulated by the same agency would undermine any efforts to simplify and consolidate NYSERDA’s program offerings. For these reasons, use of the electric SBC

to fund gas programs, if necessary, would be a vastly better regulatory solution than establishing a separate gas SBC to fund gas programs.²

Distribution is also concerned about Staff's apparent recommendation that utilities be denied the authority to retain SBC funds for their own Commission-approved programs, including research and development and SBC-funded low-income assistance programs. Staff Proposal at 22-23. Any doubt that the SBC is a tax is essentially removed when the utility becomes merely a collection agent for the state. Eliminating all possibility of local control over any part of the substantial sums collected through the SBC – if this is indeed Staff's recommendation – would erode utility and local support for SBC-funded programs. It is critical that utilities maintain a stake in the active promotion and administration of conservation and other public benefit programs funded by the SBC. A generic rule against utility administration of such programs would undermine this support, and should be avoided.

Respectfully submitted,

NATIONAL FUEL GAS DISTRIBUTION CORPORATION

By: _____

Michael W. Reville
Deputy General Counsel
6363 Main Street
Williamsville, NY 14221
(716) 857-7313

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Buffalo, New York

² Gas utilities already make a substantial contribution to NYSERDA through the annual utility assessment. Distribution's 2004-05 NYSERA assessment, alone, was nearly \$900,000.