

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 17, 2006

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin
Patricia L. Acampora

CASE 04-G-1047 - Proceeding on Motion of the Commission as to the
Rates, Charges, Rules and Regulations of
National Fuel Gas Distribution Corporation for
Gas Service.

ORDER APPROVING AREA DEVELOPMENT PROGRAM

(Issued and Effective June 2, 2006)

BY THE COMMISSION:

INTRODUCTION

On October 20, 2005, National Fuel Gas Distribution Corporation (NFGD or the Company) filed a request for approval to establish a five-year Area Development Program (ADP or the Program) in compliance with its approved rate plan.¹ The Rate Plan Order required that an ADP be developed to provide development grants to community based organizations or local development authorities for specific economic development projects in order to expand economic development opportunities in NFGD's service territory. The Rate Plan Order adopted a Joint Proposal (JP) requiring the company to collaborate with

¹ Case 04-G-1047, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service, Order Establishing Rates and Terms of Two-Year Rate Plan (issued July 22, 2005) (Rate Plan Order).

interested parties to finalize the Program details and file the completed Program for our approval.

In accordance with the Rate Plan Order, the collaborative process took place on August 29, 2005 to finalize and discuss the implementation of the Program. The Company met with Department of Public Service Staff (Staff), Public Utility Law Project (PULP), the New York State Consumer Protection Board (CPB), and other interested parties.

COMPANY FILING

On October 20, 2005, the Company filed its final ADP proposal in compliance with the Rate Plan Order. The proposed ADP (see Appendix A for a summary of the ADP) would provide development grants to community based organizations or local development authorities for specific economic development projects in order to expand economic opportunities in NFGD's service territory. The proposed ADP will be a five-year program, with grants to be funded up to \$750,000 annually, for a total obligation of \$3.75 million.² Further, any unspent funds will carry over and may be spent in the following year.

Projects must have either a natural gas application, or provide increased use of the natural gas infrastructure, to be eligible. Projects shall be considered based upon the capacity to: 1) stimulate investment in infrastructure for under-utilized industrial or commercial property; 2) create new, or higher value, employment opportunities; 3) provide workforce training or retraining to assure that higher value skills are available in the workforce; and 4) stimulate the expenditure of private investment in direct capital expenditures needed to expand employment opportunities in NFGD's service territory.

² The Rate Plan Order provides for the transfer of \$3.75 million from the Cost Mitigation Reserve to a new account entitled Area Development Funds.

PARTY COMMENTS

Notice of Proposed Rulemaking was published in the State Register on February 15, 2006, in accordance with the State Administrative Procedures Act (SAPA). The comment period expired on April 3, 2006, and one comment was received from Hamilton, Rabinovitz & Aslchuler, Inc. (HRA), which administers the Assisted Multifamily Program for the New York State Energy Research and Development Authority. The Assisted Multifamily Program is currently in the process of renovating approximately 90,000 units of affordable housing to make them more energy efficient. HRA supports the proposed ADP, and further suggests that the ADP should be expanded to include housing. It contends that improving the comfort and affordability of housing, and reducing the energy cost burden for low- and moderate-income employees, should be considered a worthwhile economic development effort. It remarks that quality of life and affordability are critical issues related to attracting workers and retaining jobs.

DISCUSSION

The Rate Plan Order established a five-year ADP to provide grants for specific projects in order to stimulate economic activity and redevelopment in the Company's New York service territory. Further, NFGD is unique given that its service territory extends into nearby Pennsylvania. The JP notes the generally poor economic condition of NFGD's New York service area, and the fact that the ADP addresses these concerns by helping to bolster the economy in the Company's New York service territory. The proposed ADP provides the Company a much needed tool to assist NFGD's efforts in making its New York service territory a more attractive place for business, thereby expanding employment opportunities.

Moreover, as industrial activity declined in western New York, the Company and its customers have been forced to bear an ever increasing burden of under-utilized infrastructure. There remain pockets of economic dislocation in NFGD's service

territory that are stubbornly resistant to redevelopment, even though viable infrastructure is in place and ready to deliver service. Infrastructure has also been under-utilized because the population in the Company's service territory has been declining, or is at best, stagnant.

The Company's ADP proposal conforms to and complies with the requirements stated in the Rate Plan Order. The ADP proposal is designed primarily to stimulate economic activity in the company's New York service territory, while affording the company flexibility to achieve growth in employment coupled with growth in the population base. These results will benefit NFGD and the western New York region as a whole.

Additionally, the ADP also includes annual reporting requirements so that the effectiveness of the Program can be evaluated. However, in order to ensure our ability to perform a comprehensive analysis regarding the effectiveness of the ADP, the annual reports shall include the minimum annual reporting requirements described in Appendix B, as well as, detail the specific economic benefits realized for each project. In addition to filing such annual reports for its ADP with the Secretary of the Commission, the Company shall also submit a copy to the Director of Economic Development and Policy Coordination.

In response to HRA's comment, the intent and design of the proposed ADP is to stimulate economic activity and employment opportunities in under-utilized areas in NFGD's service territory. Consequently, we believe that HRA's request to expand the ADP to include housing is not necessary to fulfill our intent stated in our Rate Plan Order, and therefore, housing will not be included in the Program.

CONCLUSION

The filing of NFGD proposing its Area Development Program conforms to, and complies with, the requirements stated in our Rate Plan Order and is approved subject to the modifications discussed in the body of this Order.

The Commission orders:

1. The Area Development Program submitted by National Fuel Gas Distribution Corporation complies with the Order issued on July 22, 2005 in this proceeding, and is approved as modified in the body of this Order.

2. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

Area Development Program Summary
per Order Establishing Rates and Terms of Two-Year Rate Plan
issued July 22, 2005 in Case 04-G-1047

An Area Development Program will be developed to provide development grants to community based organizations or local development authorities for specific economic development projects in order to expand economic opportunities in NFGD's service territory. Such projects will have either a natural gas application or will provide increased use of the natural gas infrastructure. Qualified projects shall receive grants from the company under the Area Development Program based upon written applications which demonstrate the proposed projects capacity to:

1. Stimulate investment in infrastructure for the development or redevelopment of underutilized industrial or commercial property, including but not limited to brownfield sites or brownfield opportunity areas receiving state assistance pursuant to Section 970-r of the General Municipal Law;
2. Create new employment opportunities or higher value employment opportunities;
3. Provide workforce training or retraining to assure that higher value skills are available in the workforce, when needed; and
4. Stimulate the expenditure of private investment in direct capital expenditures needed to expand employment opportunities in the Company's service territory.

This is a five-year program. Grants will be funded up to \$750,000 annually, and unspent funds will carry over and may be spent in the following year.

**Minimum Annual Reporting Requirements for the
National Fuel Gas Distribution Corporation's Five-Year Area
Development Program**

The Company must submit an annual report by March 31 of each year, for the previous calendar year activities related to the Area Development Program. At a minimum, the annual report must include for each grant awarded:

1. A description of the facility and operation (including SIC code and property address), including rationale for awarding a grant to this recipient.
2. The specific amount of the grant, and date which the grant was awarded.
3. The specific amount of money invested in NFGD's infrastructure for the development or redevelopment of underutilized industrial or commercial property as a result of the grant (investment itemized by year, if investment costs to be incurred over more than one year), and
 - a. the specific location and description of the property
 - b. notation whether industrial or commercial site
 - c. notation whether brownfield site or brownfield opportunity area.
4. A description of other known economic development activity provided for this project and/or applicant.
5. The number of new jobs created or the number of higher value employment opportunities created.
6. The amount of retained or incremental natural gas throughput generated by this project.
7. A description of workforce training or retraining that was provided, and an explanation of the higher value skills achieved/available in the workforce as a result of this training/retraining.
8. The specific amount of money spent by private investment in direct capital expenditures needed to expand the employment opportunities in NFGD's NYS service territory.
9. Prior year's consumption and bill payment information.
10. Description of other economic benefits and achievements provided by the project.
11. An analysis of whether eligibility criteria were satisfied by the project.
12. Description of promotion efforts.