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September 9, 1998

Ms. Mary Cottrell, Secretary
Department of Telecommunications and Energy
100 Cambridge St.
Boston, MA 02202

RE: D.T.E. 98-32 Notice of Inquiry into the unbundling of all natural gas local distribution companies' services.

Dear Ms. Cottrell,

Attached please find an original and fifteen copies of the Marketers' response to the DTE Request for Supplemental Comments dated August 26, 1998. In lieu of distributing this copy via the service list, we are e-mailing it to Cheryl Kimball for distribution to the Collaborative. We have also included an electronic copy in Word 6.0.

Thank you for your attention to this matter.

Sincerely,

Rebecca Bachelder

Attachments

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Docket No. D.T.E. 98-32
Unbundling of Natural Gas Distribution Company Services

Request for Supplemental Comments

I. Introduction

The Marketer Group[1], "Marketers", appreciates this opportunity to respond to the Massachusetts Department of Telecommunications and Energy's, "DTE", Request for Supplemental Comments in Docket No. D.T.E. 98-32, regarding the Federal Energy Regulatory Commission's ("FERC") recently published proposed policy initiatives (RM98-10 and RM98-11).

First and foremost, the members of the Marketer Group are passionate in our belief that FERC's initiatives support a policy decision by the DTE in favor of voluntary assumption of upstream capacity by marketers, regardless of the final outcome of any new FERC regulations. It is crystal clear that the ***direction*** in which FERC is moving supports more competition, not less; more players in the market, not the exercise of market power; and the truly efficient allocation of resources, not the substitution of the LDCs' judgment for a competitive market.

Therefore, we urge the DTE to stay the course - don't delay the Massachusetts proceedings and policy decisions. The worst impact the Notice of Proposed Rulemaking, "NOPR", and Notice of Inquiry, "NOI", could have is to stunt the creation of truly competitive markets for natural gas in Massachusetts, either through unwarranted delay or the adoption of an ill-fated mandatory capacity release regime.

FERC's NOPR and NOI reflect the recognition of the trend in the natural gas industry which favors competition, based on experience that competitive markets work. This experience began with Order Nos. 436 and 636, and continues in federal gas and electric restructuring policy. The Marketers conclude that much of this continuing impetus is coming from the states, which are rapidly gaining experience in retail unbundling and competitive markets. For example, the Marketers point to recent events in New York where three LDCs proposed that they be allowed to change course and begin a voluntary capacity allocation program. In recommending the request, which was ultimately approved by the Commission, Staff of the New York Department of Public Service stated (emphasis added):

The requirement that such migrating customers purchase utility pipeline

[1] The Marketer Group consists of *All*Energy Marketing, LLP, Enron Energy Services, Inc., Statoil Energy, Inc., Energy EXPRESS, Inc., Utilicorp United Inc. and PG&E Energy Services.

capacity limits marketers' abilities to offer discounts from utility service since the utility capacity must be paid for at maximum pipeline tariff rates while market priced capacity is frequently available in the secondary market at discounts from tariff rates. ***We have found that the mandatory assignment of capacity is an impediment to the growth of the competitive gas supply market.***

We have included a copy of staff's approved recommendation for all parties.

Our response to the specific questions posed by the DTE follow.

Question

1. Assume that FERC issues its rules with the short term defined as less than a year and that the rules are effective on April 1, 1999.

(a) What would be the likely effect of the proposed removal of the price cap on short term capacity release upon the value of LDC capacity release and the overall level of transition costs under:

i. Voluntary assumption of capacity?

Response

The Marketers believe that if short-term capacity releases are no longer constrained by a rate cap, capacity mitigation value could actually be enhanced under a voluntary capacity assignment program, thereby reducing potential transition costs. For example, some marketers may take more capacity for their portfolio because they would have the opportunity to receive market value year round, including the peak period, if the capacity is re-released. Likewise, LDCs would also have the opportunity to receive greater than maximum rates for capacity that isn't selected, if any, as customers migrate from the monopoly to the competitive market. It is likely that capacity into Massachusetts could be valued above maximum rates during peak periods for the 120 days when the pipes are full into New England.

Capacity will likely be released during periods of constraint if substitutes can be brought on line for less than the market value of the capacity. For example, LNG, propane facilities and storage will be dispatched in greater quantities within operational limits if interstate pipeline capacity market values exceed the cost of operating the storage and on-system facilities and the cost differential between the commodities. This will increase the amount of usable peak capacity into the region during periods of high demand and will improve reliability. It will also get needed capacity into the hands of those who need and value it the most.

The NOPR also proposes additional operating flexibility on the interstate pipelines. Capacity holders would be able to segment capacity and retain delivery rights on each segment. Capacity holders would be able to deliver at alternate receipt points and not forego the contract's primary rights. Capacity will become more fluid and "commoditized". This flexibility improves value and reduces costs for the capacity holder.

Finally, the proposed rules as currently written and justified, would encourage LDCs who have not been aggressive in releasing underutilized capacity to now do so. If the LDC does not release the capacity that is not nominated, the pipelines will.

Question

ii Mandatory assignment of capacity?

Response

ii. Mandatory assignment of capacity will foreclose potential benefits to LDCs' customers of above maximum rate prices for under-valued capacity. Since all capacity will be turned over to marketers or large-volume transporting customers, any additional value generated by a market-priced release will be retained by the marketer and the marketer's customers. Furthermore, the marketer who has been assigned the capacity initially, may not use the assigned capacity in the same way as a marketer who perceives a greater value. When capacity is transferred for other than market value, the market loses economic efficiency associated with that capacity. Flexibility and efficiency, both operational and economic, will be diminished for the entire marketplace, thwarting the goals of both the FERC and the DTE.

Question

iii Release of capacity with recall rights?

Response

iii. Simply put, recall rights diminish value. Marketers recognize there may be a need for recall rights during a specified transition period in the event of shipper nonperformance or for certain operational reasons. However, if the capacity market develops as stated in the NOPR, and with operationally-based penalties and an emphasis on self-help methods to avoid penalties (such as imbalance trading) in place at both the pipeline and regional levels, recall provisions will be unnecessary.

Question

iv Release of capacity without recall rights?

Response

iv. Release of capacity with fewer recall provisions should occur if and when FERC's NOPR policy is established in final rules, so the true market value of the capacity can be attained. As the capacity market becomes more fluid, recall rights can be eliminated. Capacity unencumbered with recall rights will extract a higher value in a free market.

Question

(b) ***What would be the likely effect of the proposed "mandatory auction of non-nominated capacity" upon the value of LDC capacity release and the overall level of transition costs under:***

i. ***Voluntary assumption of capacity?***

ii. ***Mandatory assignment of capacity?***

Response

(b) (i) and (ii) The value of capacity will be set by the market when it is released, regardless of the structure of the capacity assignment program ultimately adopted by the DTE. More capacity will be available which may drive down prices in periods of less demand. Capacity may now be available during peak periods to the extent that the holders of the capacity can command prices for the capacity which exceed the cost of other assets used to meet peak demands (e.g., storage, propane, LNG). Under current capacity conditions, in a properly functioning competitive market, we would expect to see market prices for capacity approximate the costs of these other assets during peak periods. FERC's proposed auction, as generally described, will force release of unused pipeline capacity short-term and will provide more accurate and immediate markets to better value the capacity.

Question

iii. Release of capacity with recall rights?

iv. Release of capacity without recall rights?

Response

(b) (iii) As stated in our response to question 1 (a), recall rights serve only to reduce the value of the capacity. Nevertheless, we recognize the practicality of using recall as a tool during the transition period to ensure performance and operational integrity. To the extent that the value of the capacity is reduced by recall rights, transition costs may either be increased (if the released capacity results in less than contract cost recovery) or decreased (if there is sufficient market demand for the capacity released that, even *with* recall rights the market value is higher than the contract price).

(b) (iv) The Marketers view reasonably designed and limited recall rights as a temporary, transitional tool. Ultimately there will be no need for recall rights, and the capacity will be released and allocated according to market value.

In the Marketers' view, the development and monitoring of the transition period will be a critical task for the D.T.E. and staff.

The level of transition costs should be minimized under any of the scenarios. There will be

no measurable transition costs under a mandatory assignment regime; however, there is also likely to be no market under a mandatory program.

Question

(c) **How would your responses to these questions differ, if at all, if FERC's proposed rules were:**

i. **To be effective November 1, 1999?**

Response

i. Our responses would not differ if FERC's proposed rules were to go into effect in November, 1999. The only time sensitivity from the Marketers' perspective is that we avoid any further delay in the introduction of a voluntary capacity program and development of a fully competitive market.

Question

ii. Adopted with the short term defined as a five month peak (winter) period?

Response

ii. Under the NOPR, if the short-term were defined as five months instead of a year, less capacity would be forced into auction because rate cap relief would apply to less capacity. A seasonally defined short term could inhibit the development of competitive options which maximize value and operational and economic flexibility. The benefit of seasonal differences exists only through a full year cycle of on peak and off peak periods. To the extent that the short term is confined to a peak period, the value of storage, for example cannot be determined. This is because the availability of storage during peak periods is only a part of its value. During off peak months, the existence of storage has a different, but crucial value.

Question

2. The Department recognizes that participants may wish to comment on other issues raised by the NOPR or the NOI. For example, how would the proposed principles affect the incentives for the amount of capacity that a marketer might assume under the voluntary assumption method of capacity allocation?

Response

The amount of capacity a marketer might assume will always be a function of

the existence of a vibrant, competitive market into which the marketer is selling. Therefore, to the extent that FERC initiatives serve to enhance the creation and operation of workably competitive markets, which the Marketers believe they will, then the transition period during which capacity markets will develop will likely be shorter with better outcomes for all parties.

Conclusion

The Marketers urge the DTE to forge ahead with the important task of creating a robustly competitive market for the provision of natural gas in Massachusetts. In the FERC's own words, it is striving to develop policies "intended to maximize competition, ...mitigate the ability of firms to exercise residual monopoly power, and provide opportunities for greater flexibility in the provision of pipeline services." The objectives of the NOPR and NOI are well aligned with the DTE's goals, and support voluntary, not mandatory, disposition of upstream capacity.

Our enthusiastic response to the FERC's movement to further enhance competitive capacity markets is, however, moderated by one note of caution. To the extent that LDCs are allowed to participate as merchants in retail competitive markets, the DTE, as well as FERC, will have to closely monitor LDCs' behavior and potential harmful exercise of market power, market power enabled and subsidized by utility consumers. In the Marketers' view, it would be preferable to preclude this problem from occurring in the first place by allowing LDCs to compete only through marketing affiliates governed by strict and enforceable codes of conduct at a minimum governing separation, information access, and sharing of systems.

Finally, the Marketers hereby request the opportunity to submit Reply Comments to the responses of other parties to this proceeding.

Respectfully submitted,
On behalf of the Marketer Group,

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Filed Session of August 19, 1998

Approved as Recommended

and so Ordered
By the Commission

_____

JOHN C. CRARY
Secretary

Issued & Effective August 19, 1998

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

August 7, 1998

TO: THE COMMISSION

FROM: GAS AND WATER DIVISION - GAS RATES
ELECTRIC DIVISION - TARIFF ANALYSIS

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

CASE 98-G-1096 - Ordinary Tariff Filing of Orange and Rockland Utilities, Inc. to Initiate a Pilot Program Whereby Migrating Customers Will No Longer be Required to Take an Assignment of Upstream Interstate Pipeline Capacity From the Company.

CASE 98-G-1134 - Ordinary Tariff Filing of Corning Natural Gas Corporation to Initiate a Pilot Program Whereby Migrating Customers Will No Longer Be Required to Take an Assignment of Upstream Interstate Pipeline Capacity From the Company.

CASE 98-G-1147 - Ordinary Tariff Filing of Central Hudson Gas & Electric Corporation to Initiate a Pilot Program Whereby Migrating Customers Will No Longer Be Required to Take an Assignment of Upstream Interstate Pipeline Capacity From the Company.

SUMMARY OF RECOMMENDATION: Staff recommends that the filings by Orange and Rockland Utilities, Inc. and Corning

Natural Gas Corporation and the further revisions described in this memorandum be allowed to become effective as an emergency measure pursuant to Section 202.6 of the State Administrative Procedure Act (SAPA), and Central Hudson Gas & Electric Corporation be directed to cancel its filing.

SUMMARY

In order to limit the potential for stranded costs associated with then-existing pipeline capacity contracts, the Commission's March 28, 1996 Order on Gas Restructuring allowed local distribution gas companies (LDC's or utilities) to require a customer migrating from LDC supply to non-utility suppliers to be responsible for their pro rata shares of capacity for up to three years.

The requirement that such migrating customers purchase utility pipeline capacity limits marketers' abilities to offer discounts from utility service since the utility capacity must be paid for at maximum pipeline tariff rates while market priced capacity is frequently available in the secondary market at discounts from tariff rates. We have found that the mandatory assignment of capacity is an impediment to the growth of the competitive gas supply market.

The Brooklyn Union Gas Company and Consolidated Edison Company of New York, Inc. have opted not to assign pipeline capacity to departing sales customers and have the most active markets.[/] To the extent departing sales customers do not use utility pipeline capacity the utility has excess capacity available for its own load growth or to sell on the secondary market. Any net remaining costs are recovered through the utility gas adjustment clause from remaining sales customers.

/ Con Edison presently limits this option to 10% of its capacity.

Here we are recommending approval of tariff revisions by Corning Natural Gas Corporation (Corning) and Orange and Rockland Utilities, Inc. (Orange and Rockland) that provide a pilot program for the relaxation of capacity assignment requirements so that customers can transport gas purchased from marketers using pipeline capacity purchased on the secondary market rather than use utility released capacity. The pilot programs are limited to approximately 10% of the utilities' capacity and, while each utility is expected to mitigate any unrecovered capacity costs, we recommend that the utilities be allowed to recover any net stranded costs from all its customers./

We also recommend that Central Hudson Gas & Electric Corporation's (Central Hudson) proposed program not be adopted since it would not begin until April 1999.

We believe this capacity relaxation pilot program will encourage more marketer activity and provide customers that switch from utility sales service greater opportunities for savings. A complete discussion of the utility filings is contained in Appendix I.

DISCUSSION

Central Hudson, Corning and Orange and Rockland have filed tariff revisions designed to implement a relaxation of their requirement that migrating sales customers take an assignment of utility held pipeline capacity. Central Hudson's proposed program would not begin until April 1, 1999; we recommend that Central Hudson be directed to cancel its proposed leaves. Staff will work with the company to develop an earlier program date.

/ Recovery would be from all firm customers, sales and transportation.

As described more fully in Appendix I, Corning and Orange and Rockland each proposed capacity relaxation programs that provide for the following:

- the programs will become effective for the 1998-1999 heating season,
- program size is approximately equal to 10% of the utility's pipeline capacity,
- a portion of the program is reserved specifically for residential customers,
- all capacity release revenues derived from the freed up capacity will be credited against its cost (i.e., normal customer/stockholder sharing mechanisms do not apply),
- net unrecovered utility capacity costs will be recovered from both sales and transportation customers.

In recognition of the increased risk associated with marketer underdeliveries of gas, Orange and Rockland has made several modifications to its underdelivery penalties. Specifically, the company proposed that daily underdeliveries in excess of five percent require payment of the gas cost plus twenty percent and a $10.00 per dekatherm penalty. The company has required a ten percent premium. In addition, if a marketer has two underdelivery occurrences greater than five percent the company can require the marketer to post a security deposit.

Staff finds the modifications to the underdelivery penalties to be reasonable but recommends that the security deposit be returned after twelve months if no more underdeliveries greater than five percent occur.

Staff finds the Corning and Orange and Rockland proposals acceptable (with the modifications discussed in Appendix I) and believes they should be approved. These

programs will give customers and marketers more freedom to shop in the marketplace for the capacity they need. This should reduce the cost of gas service to customers who elect to participate.

STATE ADMINISTRATIVE PROCEDURE ACT

Allowing the full comment period normally required by the State Administrative Procedure Act would not allow local distribution companies, customers and marketers time to institute and enroll in the pilot program. Accordingly, adoption of this rule as an emergency measure pursuant to State Administrative Procedure Act 202.6 is necessary for the preservation of the public welfare.

CONCLUSION AND RECOMMENDATION

The Capacity Assignment Relaxation Pilot Program tariff filings submitted by Corning and Orange and Rockland should further competition and spur greater choice for gas customers. Such filings should be allowed to become effective, provided that the companies file further revisions as discussed herein. Staff recommends that Central Hudson be directed to cancel its filing.

Peter Catalano of the Office of General Counsel has reviewed this memorandum.

It is recommended that:

1. The amendments listed in Appendix II and the further revisions directed below be allowed to become effective on an emergency basis pursuant to Section 202.6 of the State Administrative Procedure Act for the reasons set forth in this memorandum;
2. Corning Natural Gas Corporation be directed to file further revisions, on not less than

one day's notice, to become effective on August 21, 1998 on a permanent basis, to:

(a) also apply any stranded cost surcharges to P.S.C. No. 1 SC-14 customers;

(b) modify its P.S.C. No. 1 SC-14 tariff to make clear that the current capacity exit fee or monthly reservation charge would not apply to pilot program participants; and

(c) file an Aggregate Group Firm Transportation service classification for its P.S.C. No. 3 tariff.

3. Orange and Rockland Utilities Inc. be directed to file further revisions, on not less than one day's notice, to become effective on August 24, 1998 on a permanent basis, to:

(a) return security deposits to marketers (with interest) if such marketer has had no additional incidents of underdeliveries exceeding 5% within a subsequent 12 month period from when the security deposit was paid.

4. Central Hudson Gas & Electric Corporation be directed to file a consecutively numbered supplement, on not less than one day's notice, to become effective August 29, 1998, cancelling the leaves listed in Appendix II.

5. The results of the pilot program should be included in the future capacity release quarterly reports submitted to the Commission.

6. The requirement of Section 66(12)(b) of the Public Service Law as to newspaper

publication of the amendments in Clauses 1, 2, and 3 and the

cancellation supplement directed in Clause 4 above, be waived.

7. These proceedings are continued.

Respectfully submitted,

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Vicki Massaroni
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Electric Division - Upstate Rates

Reviewed by:

Frank Berak
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Gas and Water Division

Approved by:

Phillip S. Teumim
Director,
Gas and Water Division

SUMMARY

Central Hudson Gas & Electric Corporation (Central Hudson), Corning Natural Gas Corporation (Corning) and Orange and Rockland Utilities, Inc. (Orange and Rockland) have filed tariffs to allow marketers to obtain their own pipeline capacity rather than to purchase it from the utility. Staff recommends Corning's and Orange and Rockland's filings be accepted provided they file further revisions as discussed in this memorandum and that Central Hudson be directed to cancel its filing, which would not have become effective until April 1999.

DISCUSSION

Gas utilities are allowed to require customers converting from utility sales service to service from a marketer take responsibility for the pipeline capacity that was used to serve them until April 1,1999. This is an impediment to marketers, who are generally able to acquire cheaper capacity. In order to further competition and spur greater choices for customers, the utilities should allow marketers to use their own pipeline capacity. Consolidated Edison Company of New York, Inc. and the former Brooklyn Union Gas Company do not assign capacity and are allowed to recover resulting stranded costs[/]; the Commission should allow other utilities to do the same.

Staff has had discussions with representatives of Central Hudson, Corning and Orange and Rockland regarding the "Capacity Assignment Relaxation Pilot Program" (pilot program). Staff developed the following proposed guidelines for such a program and provided them to the utilities for their consideration:

/ Cases 93-G-0932, et al, Gas Restructuring Proceeding, Order Requiring Unbundling of Gas Tariffs (issued May 2, 1997).

- The amount of capacity allocated but not assigned to departing sales customers should equal 10% of the company's citygate Maximum Daily Quantity (MDQ), unless the company believes a higher percentage is more appropriate (and can justify such).

- One-sixth to one-quarter of the above percentage should be reserved for residential customers only.

- Staff expects that each local distribution company (LDC) will make diligent efforts to mitigate the costs associated with pipeline capacity not assigned to departing sales customers; however, there may remain a net cost associated with such capacity, which would be recoverable by the LDC.

- Such stranded cost should be recovered via a per unit charge to all firm sales and transportation customers.

- The per unit charge for sales customers should be handled via the Gas Adjustment Clause (GAC) mechanism; for transportation customers via a surcharge on the customer's bill.

- The per unit charge for sales and transportation should be offset by a pro-rata share of total capacity release revenues associated with the non-assigned capacity. Since the LDC would be kept whole for the non-assigned capacity stranded cost, the company should not be allowed to retain 15% of the revenues associated with the capacity release offset.

- A current transportation customer that has been assigned capacity by the LDC would be eligible to join the pilot program only when the contract with its marketer has expired.

The three utilities have now filed tariff leaves to institute pilot programs. The specific details of each filing are set forth below, along with some recommended staff revisions.

CORNING

By letter dated July 22, 1998, Corning Natural Gas Corporation ("Corning" or "company") filed original and revised tariff leaves to implement a Capacity Assignment Relaxation Pilot Program. The program would be applicable in both the company's Corning-area (P.S.C. No. 1 tariff) and Hammondsport-area (P.S.C. No. 3 tariff) service territories. The company is allowing up to 2,351 Mcf per day of capacity assignment relaxation, which is approximately 8.7% of its peak day citygate capacity for those areas[/].

Description of the Filing

Corning has revised the "General Information" portion of its P.S.C. No. 1 and No. 3 tariffs to implement the pilot program. As noted above, the peak day capacity available for the program would be limited to 2,351 Mcf; 500 Mcf of this amount (about 21%) would be reserved for residential customers. For the P.S.C. No. 1 tariff, the per unit surcharge for stranded costs would be included in the company's GAC mechanism for its SC-1, SC-2 and SC-5 sales customers, and the surcharge would be added to the bills of SC-6 and SC-7 transportation customers. For the PSC No. 3 tariff, the per unit surcharge would be included in the company's GAC mechanism for SC-1 and SC-2 sales customers, and added to the bills of SC-4 transportation customers. Corning would file a monthly statement with the Commission setting forth the transportation surcharge rate.

Discussion/Recommendation

Corning's pilot program tariff filing is generally in accordance with staff's recommendations. However, the

/ Corning is proposing to apply the 10% pilot program figure to its total peak day citygate capacity for these areas (27,062 Mcf) less the peak day capacity needed by its five major industrial customers (3,556 Mcf), or 23,506 Mcf. Ten percent of that figure is 2,351 Mcf.

company has also included the following language in its filing:

> This pilot program will enable aggregate transportation customers to avoid the capacity costs that the Company bills through its reservation charges and exit fees in service classification 14 (P.S.C No. 1, Original Leaf No. 20-E-2)
>
> * * *
>
> This pilot program will enable aggregate transportation customers to avoid any capacity cost billings from the Company (P.S.C. No. 3, 2nd Revised Leaf No. 74).

Staff notes that, although Corning is making the pilot program available to its Corning-area SC-14 (Aggregate Group Firm Transportation Service) customers, it would not require such customers to pay the stranded cost surcharge. Staff believes that any stranded costs should be spread across as wide a customer base as possible. Therefore, we recommend that Corning be required to assess any stranded cost surcharges on SC-14 customers as well.

We also note that Corning's current SC-14 tariff requires customers converting from sales to transportation service to either pay a capacity exit fee (for those customers who do not want upstream capacity reserved on their behalf) or a monthly reservation charge (for those customers who want upstream capacity reserved on their behalf[/]). Staff recommends that Corning include language in its SC-14 tariff making clear that such exit fee or monthly reservation charge would not apply to pilot program participants.

/ Customers classified as human needs customers are required to select reserved status.

Regarding its Hammondsport-area customers (P.S.C. No. 3 tariff), Corning currently does not offer an Aggregate Group Firm Transportation Service Class similar to SC-14 discussed above. Since Corning would require Hammondsport-area customers to help pay for any pilot program stranded costs, staff believes such customers should have the opportunity to participate in an aggregation program. We therefore recommend that Corning be instructed to file an Aggregate Group Firm Transportation service classification for its P.S.C. No. 3 (Hammondsport-area) tariff.

With these changes, Corning's program should be approved.

ORANGE AND ROCKLAND

By letter dated July 24, 1998, Orange and Rockland Utilities, Inc. ("Orange and Rockland" or "company") filed a proposal to implement a pilot program allowing Qualified Sellers (marketers) the opportunity to obtain their own capacity rather than purchase it from the company. As described in the filing, the company is allowing up to 20,000 Dth per day for this proposal, which is approximately 10% of its peak day capacity requirement. Further, the company is proposing to reserve 25% of that amount, or 5,000 Dth per day, exclusively for residential customers.

Description of the Filing

In order to implement this program, the company proposes a new Service Classification 12, Continuous Receipt of Customer-Owned Gas Using Third-Party Capacity. The proposal allows marketers, for up to the stated limit of peak day capacity, to acquire their own capacity, allowing Orange and Rockland to market the newly freed up capacity. Since the general body of ratepayers are already bearing the contracted cost of capacity, 100% of any such revenues will be credited back to ratepayers. This is necessary to mitigate any shortfalls since the marketer will no longer be required to purchase this from the company. To the extent that there are unrecovered or stranded capacity costs, it will surcharge firm

sales and transportation customers, either through the Gas Adjustment Clause or as a surcharge on their bill, respectively. The company's filing states that it has made several changes required to implement this program.

Most of the changes are conforming or clarification changes with certain exceptions. First, the company notes that it has corrected an oversight in its companion Service Classification 11 (which is similar to SC-12 except those marketers are assigned capacity from the company). Specifically, the company states that in the case of a daily citygate underdelivery of greater than 5%, the current tariff, while charging a $10 per Dth penalty, neglects to assess for the weighted average cost of transportation plus a published gas cost-- elements which are explicitly provided for in the tariff currently where the shortfall is in the 2-5% range. Thus, the current tariff fails to recover the weighted average cost of transportation and the gas cost where underdeliveries exceed 5%. This has been corrected in the instant filing and is incorporated in both the SC-11 and SC-12 provisions.

The company has made further changes. Under the current tariff, where a shortfall is in the 2-5% range, the marketer must pay a 10% premium over the highest daily posting of a published price for the replacement gas. This acts as a disincentive, discouraging underdeliveries while reimbursing the company so that its other customers will not be economically harmed since the company must now acquire and bear the costs of needed supply. Considering the company is now increasing its exposure to underdeliveries with this new option for marketers, it proposes a 20% premium payment for the largest category of underdelivery (over 5%). Also, for that largest category, the company is proposing in the case of a second underdelivery exceeding 5%, that a marketer be required to post a security deposit, similar to as currently allowed under the provisions of SC-11, in cases where marketers are unable to meet credit standards. Finally, the

company is proposing that transfers back to SC-11 not be allowed before March 31, 1999 and also that subsequent transfers may not occur more than once in a twelve-month period.

Discussion/Recommendation

Staff has reviewed the company's filing and finds that it is generally sound. Marketers will now have the opportunity to acquire their own capacity, up to the specified limits. As a result of this new opportunity for firm, including residential, customers, the Company will need to not only re-market the freed up capacity but it will need to be prepared in the case of supply underdeliveries to maintain service. Overall, the terms and conditions of the proposal should allow the company the ability to manage its capacity and supply as needed, as well as protect the general body of ratepayers.

One provision warrants modification. The company's proposal, in an effort to discourage repeat incidents of large underdeliveries of gas, provides that in the case of a second underdelivery incident of over 5%, the marketer will be required to post a security deposit, as is currently allowed in the tariff where creditworthiness standards are not met. Considering the operational consequences on the system of repeat incidents of large underdeliveries, staff does not object to this proposal, especially since the deposit will accrue interest. Staff recommends, however, that if the marketer has no more incidents of underdelivery exceeding 5% within the subsequent 12 month period from when the deposit is paid, the company promptly return the deposit (with interest) to the marketer. With this modification, staff believes a proper balancing of company and marketer interests is achieved. This change has been discussed with, and is acceptable to, the company. Staff recommends the company's proposal, with modification, be accepted and the company file the revision to become effective on one day's notice.

CENTRAL HUDSON

By letter dated July 30, 1998, Central Hudson Gas & Electric Corporation ("Central Hudson" or "company") filed tariff leaves to institute a Capacity Assignment Relaxation Pilot Program. The company's program would not become effective until April 1999 thereby missing the upcoming heating season. Considering this, as well as other complications with the company's filing, staff recommends that Central Hudson be directed to cancel its proposed leaves.

BILL IMPACT

As discussed above, each LDC would recover any stranded capacity cost associated with its pilot program via a per unit charge to all sales and transportation customers. The per unit charge for sales customers would be handled via the GAC mechanism, and for transportation customers via a surcharge on the customer's bill. Assuming that each pilot program is fully subscribed, and taking into account current capacity costs and expected capacity release revenues, each company has calculated the following per unit surcharge that would be applied to all sales and transportation customers (excluding taxes). The annual figure is based on a typical residential heating customer assumed to use 120 Mcf per year:

Surcharge	Per Unit Surcharge	Residential Annual
Corning	$ 0.0457/Mcf	$ 5.48
Orange and Rockland	$ 0.1279/Mcf	$ 15.35

REPORTING

The level of success of the pilot programs will be monitored by staff. Since each utility is currently required to file a quarterly report with the Commission detailing

capacity releases/, the results of its pilot program should also be included in those quarterly reports.

/ Case 93-G-0932 - Proceeding on Motion of the Commission to Address Issues Associated with the Restructuring of the Emerging Competitive Natural Gas Market, Opinion No. 94-26 - Opinion and Order Establishing Resulting Policies and Guidelines for Natural Gas Distributors (issued December 20, 1994).

APPENDIX II

Filings by: CENTRAL HUDSON GAS & ELECTRIC CORPORATION

Amendments to Schedule P.S.C. No. 11 - Gas

Original Leaves Nos. 11Z-13(a), 11Z-19, 26B, 50
First Revised Leaves Nos. 27A and 45B
Second Revised Leaf No. 49
Third Revised Leaves Nos. 11F-2(a), 11Z-18
Fifth Revised Leaves Nos. 11Z-13, 45A, 48
Sixth Revised Leaves Nos. 45, 46, 47
Seventh Revised Leaf No. 44
Eighth Revised Leaf No. 26A
Ninth Revised Leaf No. 25
Eleventh Revised Leaf No. 26

Issued: July 30, 1998 Effective: August 29, 1998
Received: July 30, 1998

CORNING NATURAL GAS CORPORATION

Amendments to Schedule P.S.C. No. 1 - Gas

Original Leaf No. 20-E-2
Eighth Revised Leaf No. 31-A
Fourteenth Revised leaf No. 20-E
Nineteenth Revised Leaf No. 29

Amendments to Schedule P.S.C. No. 3 - Gas

Original Leaf No. 74-A
Second Revised Leaf No. 74
Third Revised Leaf No. 94
Issued: July 22, 1998 Effective: August 21, 1998
Received: July 22, 1998

ORANGE AND ROCKLAND UTILITIES, INC.

Amendments to Schedule P.S.C. No. 4 - Gas

Original Leaves Nos. 80.1, 166.1, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182
First Revised Leaves Nos. 5, 162, 165
Second Revised Leaves Nos. 73, 80, 129, 152, 155
Third Revised Leaf No. 133

Issued: July 24, 1998 Effective: August 24, 1998

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Newspaper Publication: Waived