

125 FERC ¶ 61,358
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

National Fuel Gas Supply Corporation

Docket No. TS04-248-002

ORDER ON MOTION FOR CLARIFICATION AND COMPLIANCE FILING

(Issued December 23, 2008)

1. On April 24, 2007, National Fuel Gas Supply Corporation (National Fuel) filed a Motion for Clarification relating to the standards of conduct under Order No. 2004¹ and Order No. 690.² Specifically, National Fuel requested that the Commission clarify that its affiliated local distribution company, National Fuel Gas Distribution Corporation (Distribution), is not a marketing affiliate under Order No. 690 and that National Fuel can provide dispatch service for Distribution. In its filing, National Fuel stated that Distribution's off-system sales of gas are never transported on National Fuel's transportation system. National Fuel also stated that, as a result, certain compliance filings related to a previous waiver request made before the issuance of Order No. 690 are moot.

¹ *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs. ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, FERC Stats. & Regs. ¶ 31,161, *order on reh'g*, Order No. 2004-B, FERC Stats. & Regs. ¶ 31,166, *order on reh'g*, Order No. 2004-C, FERC Stats. & Regs. ¶ 31,172 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated and remanded as it applies to natural gas pipelines sub nom. National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831 (D.C. Cir. 2006) (*National Fuel*).

² *Standards of Conduct for Transmission Providers*, Order No. 690, FERC Stats. & Regs. ¶ 31,237, *order on reh'g*, Order No. 690-A, FERC Stats. & Regs. ¶ 31,243 (2007).

2. On October 16, 2008, the Commission approved Order No. 717,³ which replaced the prior standards of conduct under Order Nos. 2004 and 690. Among other things, it replaced the corporate separation requirements with an employee functional approach that is based on whether an employee performs “marketing functions.” Because the Commission has made substantial changes to the standards of conduct requirements since National Fuel made its filings in this docket, the Commission is dismissing the requests without prejudice. If National Fuel wishes to request a waiver or clarification under the new requirements, it may do so.

The Commission orders:

The Commission dismisses National Fuel’s pending filings in this docket, without prejudice, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³ *Standards of Conduct for Transmission Providers*, Order No. 717, 73 Fed. Reg. 63,796 (October 27, 2008), FERC Stats. & Regs. ¶ 31,280 (2008), 125 FERC ¶ 61,064 (2008).