

143 FERC ¶ 61,156  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 17, 2013

In Reply Refer To:  
National Fuel Gas Supply Corporation  
Docket No. RP13-299-000

National Fuel Gas Supply Corporation  
6363 Main Street  
Williamsville, NY 14221

Attention: David W. Reitz  
Deputy General Counsel

Dear Mr. Reitz:

1. On November 19, 2012, National Fuel Gas Supply Corporation (National Fuel) filed certain tariff records<sup>1</sup> to be effective December 19, 2012 to implement summer period storage withdrawals and decoupled storage capacity releases. Several parties<sup>2</sup> filed comments and requests for clarifications, and National Fuel filed an answer (December Answer). On December 19, 2012 the Commission issued an order<sup>3</sup> which accepted and

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<sup>1</sup> See Appendix.

<sup>2</sup> Consolidated Edison Company of New York (ConEd), National Fuel Gas Distribution Corporation (NFD), NiSource Distribution Companies (NiSource), and The National Grid Gas Delivery Companies (National Grid). For the purposes of this proceeding, The National Grid Gas Delivery Companies are: The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Boston Gas Company, Colonial Gas Company, collectively d/b/a National Grid; Niagara Mohawk Power Corporation d/b/a National Grid; and The Narragansett Electric Company d/b/a National Grid, all subsidiaries of National Grid USA, Inc.

<sup>3</sup> *National Fuel Gas Supply Corp.*, 141 FERC ¶ 61,230 (2012) (December 2012 Order).

suspended the tariff records to be effective May 19, 2013, subject to refund and further Commission action, and provided that parties could file responses to National Fuel's December Answer.

2. As discussed below, the Commission approves the tariff records associated with summer period storage withdrawals. However, we reject the tariff records associated with decoupled storage capacity releases, because National Fuel proposed that the proposal contained in them take effect at some indefinite time in the future in violation of section 154.207 of the Commission's regulations.<sup>4</sup> We shall treat the rejected tariff records as though they are *pro forma* and permit National Fuel to file actual tariff records identical to the *pro forma* tariff records in this docket, subject to the modification discussed below, no less than 30 or more than 60 days in advance of the proposed effective date of the tariff records, in accordance with section 154.207 of the Commission's regulations.<sup>5</sup>

3. National Fuel's tariff filing in the instant docket is pursuant to Article X of the partial settlement (Settlement) of its general section 4 rate case in Docket No. RP12-88-000, which the Commission approved on August 6, 2012.<sup>6</sup> Article X of the Settlement provided that the participants would continue ongoing discussions regarding certain enhancements that shippers requested to storage service. National Fuel agreed to prepare and provide a written analysis of the impact of storage enhancement proposals on its system, and include in that analysis a detailed explanation of how such service enhancements will be accomplished or, if they cannot be accomplished, why that is the case. The written analysis was to be completed and provided by National Fuel no later than 60 days following the Commission's approval of the Settlement. If, as a result of these discussions, the participants agreed that certain storage service enhancements should be implemented on its system, on or before 120 days following the date of the Settlement, National Fuel agreed to make and support one or more tariff filings to implement the agreed upon storage service enhancements.

4. In the instant filing, consistent with Article X of the Settlement, National Fuel is proposing to modify its tariff to reflect the parties' agreement to make two changes to National Fuel's firm storage services. First, National Fuel proposes to permit a firm storage customer under Rate Schedules ESS and FSS to release a portion of its Maximum Storage Quantity (MSQ) with Maximum Daily Injection Quantities (MDIQ) and/or Maximum Daily Withdrawal Quantities (MDWQ) that represent a different percentage of

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<sup>4</sup> 18 C.F.R. § 154.207 (2012).

<sup>5</sup> *Alliance Pipeline L.P.*, 136 FERC ¶ 61,066, at P 3 (2011) (*Alliance*).

<sup>6</sup> *National Fuel Gas Supply Corp.*, 140 FERC ¶ 61,114 (2012).

its MSQ than the corresponding percentage under the releasing customer's service agreement.<sup>7</sup> National Fuel refers to such releases as "decoupled storage capacity releases" or "decoupled releases."<sup>8</sup> Second, National Fuel proposes to provide firm storage customers under Rate Schedule ESS a limited right to make firm summer period withdrawals. National Fuel explains that these changes are intended to provide enhanced flexibility for its firm storage service customers.

5. National Fuel also states that it will implement its proposal allowing for the decoupling of storage capacity releases only after it has completed the necessary changes to its automated business system. After the issuance of a final Commission order in this proceeding, National Fuel estimates the changes may take several months to complete. Therefore, National Fuel has proposed tariff language in GT&C section 10.12 which states that decoupled releases will only be available "[f]ollowing the implementation of the necessary changes to Transporter's business system."<sup>9</sup>

6. The parties filing comments generally support National Fuel's proposed storage service enhancements. However, several parties filed comments requesting additional clarifications from National Fuel and/or the Commission. On December 12, 2012, National Fuel filed its December Answer. On December 19, 2012, the Commission issued its December 2012 Order, which stated that since the parties had raised a number of issues that warrant further consideration, and since National Fuel had filed a detailed answer and proposed various clarifications to its proposal, the parties would be afforded an opportunity to respond.

7. Only Con Ed filed a response to National Fuel's December Answer as permitted by the December 2012 Order. Con Ed repeats its request that the Commission accept National Fuel's "decoupled storage capacity release" proposal as a pilot program and require National Fuel to resubmit the proposal after it has had time to assess the impact of the program on its system operations. Con Ed notes that National Fuel has proposed certain limitations on a shipper's ability to decouple releases. According to National Fuel, these limitations are necessary due to the uncertain impact such releases may have on its system operations. In order to provide parties with an opportunity to re-evaluate National Fuel's proposed storage service enhancements, Con Ed requests the Commission limit the duration of the proposals to a specified term, *e.g.*, two years. At

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<sup>7</sup> This proposal is set forth in new sections 10.2(a)(iii)(A) and 10.12 of its General Terms and Conditions (GT&C).

<sup>8</sup> National Fuel transmittal at 2.

<sup>9</sup> See National Fuel Gas Supply Corporation, FERC NGA Gas Tariff, National Fuel Tariff; [10 – Capacity Release, 10.12 – Decoupled Releases, 0.0.0.](#)

the end of the specified term, National Fuel would then re-file its proposals incorporating any necessary changes consistent with its actual operational experience.

8. On February 28, 2013, National Fuel submitted supplemental information which it states represents a consensus among the parties resolving all outstanding issues in this proceeding.<sup>10</sup> The supplemental information provides that National Fuel will submit to the parties in this proceeding detailed information concerning the impact of its “decoupled storage capacity release” proposal and associated analyses on or before June 30, 2015 and schedule a conference call no later than September 30, 2015. National Fuel further agreed the information to be provided will reflect various specified daily quantities and percentages, aggregated over all decoupled releases, for example, storage capacity released as a percentage of total storage capacity. National Fuel also states it is not opposed to the Commission requiring National Fuel, as a condition of acceptance of this filing, to abide by its commitment as detailed in the February 28, 2013 supplemental information filing.

9. No party opposes National Fuel’s proposal to permit firm summer period withdrawals and the Commission finds that proposal reasonable. Accordingly, the Commission accepts National Fuel’s proposal to permit firm summer period withdrawals and the associated tariff records listed in the Appendix to be effective May 19, 2013.

10. The Commission also finds that National Fuel’s proposal to permit decoupled storage capacity releases is reasonable, subject to the conditions agreed to by National Fuel in its February 28, 2013 supplemental filing. However, the Commission rejects the associated tariff records listed in the Appendix. Specifically, National Fuel’s proposed tariff records are rejected for failure to comply with section 154.207 of the Commission’s regulations. Under these notice provisions, “all proposed changes in tariffs ... must be filed with the Commission and posted not less than 30 days nor more than 60 days prior to the proposed effective date thereof.”<sup>11</sup> National Fuel states it must make significant changes to its automated business program, which may require up to three months to complete, after a final Commission order. During that time, National Fuel will not allow shippers to utilize the decoupled storage release tariff provisions. The Commission finds National Fuel’s proposal to make its storage decoupling proposal effective at some indefinite date in the

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<sup>10</sup> In addition, on January 9, 2013, National Fuel filed a motion to submit an answer to Con Ed’s answer to National Fuel’s answer. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure (18 C.F.R. § 385.213(a)(2) (2012)) prohibits answers unless ordered by the decisional authority. Since the December 2012 Order did not permit this additional round of answers, we reject the motion to file the January 9, 2013 answer.

<sup>11</sup> 18 C.F.R. § 154.207 (2012).

future is contrary to section 154.207 of its regulations.<sup>12</sup> When, as here, a pipeline desires the Commission to rule on a proposal before it makes the required changes to its computer or other business systems, the pipeline should file *pro forma* tariff records setting forth its proposal and not file actual tariff records until after the Commission has ruled on the *pro forma* proposal. This will avoid any confusion that might arise if the pipeline's tariff included actual tariff records setting forth a service or shipper options that are not, in fact, available.

11. Consistent with this policy, the Commission treats National Fuel's rejected tariff records in this docket as if they were *pro forma*. The Commission finds the February 28, 2013 supplemental information filing to sufficiently support the substance of its decoupled storage capacity release proposal, which it states is now entirely unopposed. This proposal should provide shippers with additional flexibility and service enhancements not currently offered under National Fuel's tariff. These changes may serve to enhance the value of National Fuel's storage services to existing customers, as well as attract new shippers to the system. Further, National Fuel's commitment to submit additional information and analyses pursuant to its February 28, 2013 filing will provide all interested parties with an opportunity to evaluate the impact of these changes on the operation of National Fuel's system, and to make modifications as appropriate. Accordingly, we will permit National Fuel to file identical tariff records in this docket, as modified by this order, when it determines its filing will meet the requirements of section 154.207. In particular, when National Fuel submits its "decoupled storage capacity release" filing, it must modify section 10.12 of its GT&C to remove the phrase "Following the implementation of the necessary changes to Transporter's business system," and make such other changes as are necessary to implement the February 28, 2013 supplemental information filing.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>12</sup> *Alliance*, 136 FERC ¶ 61,066 at PP 19, 35 (rejecting request for waiver of section 154.207, where pipeline stated that its new proposal would not take effect until its business systems could be reprogrammed).

**Appendix**

National Fuel Gas Supply Corporation  
FERC NGA Gas Tariff  
National Fuel Tariff

Tariff Records Accepted Effective May 19, 2013

[6.080: ESS Rate Schedule, § 2 – Applicability and Character of Service, 1.0.0](#)  
[33 – OFO, 33 – Operational Flow Orders, 1.0.0](#)

Tariff Records Rejected

[10 – Capacity Release, 10.2 – Notice Required by Existing Shipper, 3.0.0](#)  
[10 – Capacity Release, 10.12 – Decoupled Releases, 0.0.0](#)