



National Energy Marketers Association

Proceeding on the Motion of the Commission)
As to the Low Income and Competitive Market)
Rate Plan Programs of National Fuel Gas)
Distribution Corporation)

Case 04-G-0718

COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION

The National Energy Marketers Association¹ hereby submits comments on the continuation of NFG's Competition Backout Credits (CBoC) and competition Outreach and Education (O&E) Program as proposed by the Commission in its June 15, 2004, Order Instituting Proceeding and Notice Soliciting Comments [hereinafter "Order"]. These programs are otherwise scheduled to expire September 30, 2004. NEM supports the Commission's recommendation to continue the CBoCs, at a minimum at current levels, pending the completion of a major rate case or unbundling proceeding as well as the continuation of the O&E Program. NEM also urges the Commission to consider requiring NFG to offer to purchase marketer receivables without recourse.

¹ NEM is a national, non-profit trade association representing wholesale and retail marketers of natural gas, electricity, as well as energy and financial related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, electronic trading exchanges and price reporting services, advanced metering, demand side management and load management firms, billing, back office, customer service and related information technology providers. NEM members are global leaders in the development of enterprise solution software for energy, advanced metering, telecom, information services, finance, risk management and the trading of commodities and financial instruments. NEM members also include Multiple Service Organizations (MSOs), inventors, patent holders, systems integrators, and developers of advanced Broadband over Power Line (BPL), Power Line Communications (PLC) technologies, and Hybrid-PLC as well. NEM and its members are committed to helping federal and state lawmakers and regulators to implement a consumer-focused, value-driven transition to a reliable, price and technology competitive retail marketplace for energy, telecom and financial related products, services, information and technologies.

A. Commission Recommendations

The Commission recommends that the CBoCs be continued as follows:

- A. For marketers performing the billing function under the company's approved single-retailer model, \$3.30 per customer per month;
- B. For marketers using the company's Temporary Interim Billing Service (TIBS) (or its successor), \$1.60 per customer per month.²

The CBoCs are proposed to be continued until NFG's next major rate case, or if NFG files rates in the unbundling proceeding and such unbundled rates become effective prior to a rate case, the unbundled rates would replace the CBoC.³ With respect to O&E, the Commission recommends the program should continue to include messages and information on the availability of choice and the performance of a residential and small commercial customer awareness survey.⁴

B. The CBoC and O&E Program Should be Extended

The Commission recommended extension of these programs because it, "furthers our goal of developing a competitive market and will avoid a deterioration of gains already achieved."⁵ NEM agrees with the Commission and recommends that backout credits be retained, at a minimum at current levels, until a rate case or NFG unbundling filing is implemented. The CBoC, "credits marketers for the costs of the competitive utility functions they perform that are also recovered through NFG's delivery rates,"⁶ such as "billing, gas supply purchasing, administration and certain customer care elements."⁷ If the CBoC were permitted to expire, then consumers that select competitive supply options would be paying twice for these services - once to NFG who is no longer rendering the service and once to the competitive supplier. The Commission should not permit such an inequitable result as it is clearly not just and reasonable to charge customers for competitive commodity-related services not rendered, particularly in NFG delivery service.

² Order at page 5.

³ Order at page 5.

⁴ Order at pages 5-7.

⁵ Order at page 4.

NEM also recommends that the Commission expeditiously approve the continuation of the CBoCs, at a minimum at the current level, so that marketers will have certainty about the applicable credit for the upcoming winter heating season and will be able to form their marketing and business plans accordingly.

With respect to the O&E Program, NEM strongly supports competitively neutral efforts to explain the benefits of choice programs. For this reason, NEM supports the continuation of the O&E Program for NFG as an integral part of the effort to develop a competitive market.

C. The Commission Should Require NFG to Offer to Purchase Marketer Receivables Without Recourse

While backout credits and outreach and education programs are undoubtedly key elements in supporting competitive choice programs in NFG and other utilities throughout New York State, NEM also recommends that in the interim before a full utility exit from the merchant function, and in order to lower the cost to serve New York consumers, particularly residential consumers, that the Commission adopt many of the elements of O&R's Switch and Save Program, in particular utility purchase of marketer receivables without recourse, as a first step in a transitional market design for the New York utilities, including NFG. NEM has repeatedly recommended that the O&R model be implemented across the state as a means to timely and cost-effectively ensure compliance with HEFPA requirements.⁸ In addition to the benefits of the O&R model for HEFPA compliance purposes, under a purchase of receivables paradigm 30+% migration has been achieved in the O&R service territory. The benefits of the purchase of receivables model have been recognized by many stakeholders,⁹ including this Commission which previously stated that, "the purchase of accounts receivable, when coupled with other aspects of an aggressive retail access program, may help foster the

⁶ Order at page 3.

⁷ Id.

⁸ See NEM's submissions in Case 03-M-0117.

⁹ NEM notes that Staff proposed adoption of the purchase of receivables as part of a transitional market model in its Comments in the Competitive Opportunities proceeding. Similarly, this model is included in the terms of the recently filed ConEd gas settlement in Case 03-G-1671.

development of residential retail markets."¹⁰ Accordingly, NEM urges the Commission to consider requiring NFG to offer to purchase marketer receivables without recourse at this time.

D. Conclusion

For the foregoing reasons, NEM supports the Commission recommendation to continue the CBoCs, at a minimum at the current level, pending a major rate filing or unbundling filing and to continue the O&E Program. NEM also urges the Commission to consider requiring NFG to offer purchase marketer receivables without recourse consistent with the Commission's goal of developing a competitive market.

Sincerely,

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¹⁰ Case 98-M-1343, et al., Order on Petitions for Rehearing, issued December 5, 2003, at page 37.