

Consumer Power Advocates

Columbia University Medical Center
Fordham University
Memorial Sloan Kettering Cancer Center
The College of New Rochelle

Mount Sinai Health System
New York Presbyterian Hospital
New York University
NYU Langone Medical Center

Filed electronically

July 30, 2015

Honorable Kathleen Burgess
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

RE: 15-G-0185- Fuel Oil Supply Coordination with Interruptible Gas Service

Dear Secretary Burgess,

These are the comments of Consumer Power Advocates (CPA) regarding in the above captioned proceedings. Consumer Power Advocates' mission is to lower energy costs for our members through representation in energy-related regulatory and legislative proceedings. CPA is an alliance of large not-for-profit institutions in the greater New York region. Our membership is open to hospitals, universities, medical schools, and cultural institutions. CPA members include some of the largest employers and energy users in New York State. Six of our recent member hospitals are among the 15 largest regional health organizations including five of the ten largest. Six current CPA members are among New York City's 25 largest employers, according to Crain's New York Business.

Preliminary Statement

Recent years have seen changes in the boiler fuels marketplace. Due to air quality concerns, natural gas has become the preferred fuel for many large boilers in New York City. Longer and/or more frequent interruptions of gas delivery service have made a reliable supply of fuel oil essential for customers who are required to interrupt. At the same time, there has been a contraction or consolidation of the wholesale fuel oil business, possibly caused by new rules restricting the use of oil in boilers. As NYSERDA presented to the Commission's May 15,

technical conference,¹ total distillate decreased nearly 30% between 2003 and 2012, and we believe that trend has continued. The same presentation shows that distillate inventories during the winter of 2013-2014 were well below the 5 year average. The combination of more reliance on back up fuels, smaller fuel oil inventories and fewer suppliers has created a new market reality that demands constant attention by facility managers.

Questions regarding compliance with interruptions and Operational Flow Orders (OFOs) during the past two winter seasons.

7. Please provide any reports or data that indicate any nonfirm gas customers were unable to receive deliveries of alternate heating fuel supplies in your service territory from November 1, 2014 through April 1, 2015 and from November 1, 2013 through April 1, 2014. If applicable, please provide the number of customers, the particular days that deliveries were unavailable, and any gas usage by these customers during those periods.

We are aware of one incident when one oil supply contract was not honored during the 75 hour interruption on the Con Ed system that began on February 23. That customer was able to find an alternate supplier.

8. Was there any indication of a shortage or distribution failure for heating fuel oil within your service area from November 1, 2014 through April 1, 2015? From November 1, 2013 through April 1, 2014? If so what was it? Based on your experience, were the heating fuel oil distribution problems of last winter a state wide phenomenon or was it isolated to the NYC and Long Island area?

12. Did heating fuel oil dealers or other representatives of the heating fuel oil industry indicate or contact you regarding an inability to supply heating fuel oil to customers within your service area from November 1, 2014 through April 1, 2015? From November 1, 2013 through April 1, 2014? If so, when and how was the contact made?

Our members are all located in New York City, and report difficulties that suggest that there may have been stress on the oil supply and distribution facilities for fuel oil in both winters. These difficulties include the failure to deliver full contract quantities, leading to more frequent repeat deliveries. Although we do not consider this an acceptable situation, none of these delays or scheduling problems caused a critical loss of supply.

¹ NYSERDA, NYS Petroleum Fuel Supply Dynamics, Winter 2013 -14, Charles Wesley, May 15, 2014

Questions regarding possible modifications to tariffs and/or operating procedures.

AFFIDAVITS FOR ALTERNATE FUEL/ENERGY SOURCE

13. Does your service territory currently have a requirement for annual affidavits to be submitted to the local distribution company for verification of compliance with alternate fuel/energy source requirements of the Commission? If so, what are the details of the affidavit filing requirement?

Our members are customers of Con Ed, and they are required to file an affidavit. This affidavit does not specify the details of the contract or identify the supplier. CPA believes this affidavit should be amended to include the contact information of the supplier the customer has contracted with, both to allow verification and to allow the utility to provide notice to suppliers of impending events that may affect their business.

15. Based on your experience, are different contract terms required to ensure fuel oil refill occurs on a firm basis rather than a best efforts basis?

CPA believes that firm contracts are essential for those customers with limited oil storage. Our experience suggests that there are occasional large price spikes in the daily oil market that create a large opportunity cost for delivering fuel under fixed-price contracts. Firm contracts assure the buyer that the contract will be honored. “Best efforts” contracts may not provide an equivalent assurance. At a minimum, we recommend interruptible customers obtain firm supply for a minimum of 10 days. These contracts should include provisions that require the fuel oil supplier to pay the replacement cost related for all undelivered fuel, to prevent unscrupulous dealers from reselling fixed price fuel to the highest bidder. Our members negotiate contracts which include penalties for the failure to deliver. A requirement to reimburse the customer for the above contract cost of replacement fuel is one of the most effective incentives for sellers to provide reliable and timely deliveries.

TEMPERATURE CONTROL CUSTOMER SETPOINT

17. For utilities that have a service classification that interrupts customers based on weather attaining a specific temperature set point, is the temperature set point identified for the interruption of these customers coordinated with a specific distribution pressure situation that would restrict service to firm customers? If so, what are the parameters or deciding factors utilized for the set point determination?

18. If the customer is interrupted at a specific temperature, what are the parameters or deciding factors that are utilized to determine when the customer can start to utilize gas service again? Is this working satisfactorily or do any of these parameters need to be modified? Why?

All interruptions must be determined by the operating needs of the pipeline and distribution systems. The set point for temperature controlled interruptions should be determined in a transparent process that links specific temperatures to expected system conditions. Notification customers should only be interrupted for actual system conditions, not any pre-determined temperature.

TWO-STRIKE RULE MODIFICATIONS

- 21. Does your service territory currently employ the concept of a “Two-Strike Rule” that switches customers to firm service or removes customers from gas service if the customer fails to interrupt when requested by the utility twice in any winter season? If so, what are the specific parameters of this rule?*
- 22. During the last two winter seasons, when there was more than one interruption of customers within a short time frame (24-48 hours), did the short time frame make implementation and/or enforcement of the “Two Strike Rule” problematic? If yes, how?*
- 23. If application of the “Two-Strike Rule” was problematic, would suspending the enforcement of a strike when interruptions occur too close together improve or hinder reliability of service to non-firm customers? Why or why not?*
- 24. If the enforcement of a strike on a permanent basis during periods of frequent interruptions is suspended, what time span would you consider appropriate? If more than 24 hours, how long?*

Longer interruption periods are problematic for our members. Oil burners need frequent maintenance requiring the use of gas only back up boilers. During interruptions that last more than 5 business days, the utility should accommodate brief periods of gas use as required for maintenance. We recommend that utilities discuss maintenance requirements with facilities managers, both prior to the winter season and again when lengthy interruptions are expected.

INTERRUPTIBLE PROTOCOL MODIFICATIONS

- 25. Should non-firm customers be allowed to remain on gas service if and when peaking gas supplies (city gate contracts, LNG service, etc.) are dispatched to the distribution system? Why or why not?*

Non-firm customers should always receive service when there is sufficient capacity to deliver gas. In the case of customers that purchase supply from the utility, that supply should be available at a price determined by the tariff. For those utilities that use very costly peaking supply, tariffs should not require interruptible customers to purchase that supply at any price higher than the cost of alternate fuels.

In the more common situation of customers who purchase market supply, the utility should always be obligated to deliver that supply if it is deliverable to the city gate and there is adequate distribution capacity from the city gate. That gas is the property of either the buyer or the seller, not the utility.

To accept that gas into the distribution system, only to deliver it to firm customers would be confiscatory.

CPA recognizes that providing interruptible service during hours when a costly peak supply source may not result in the most efficient use of resources. The correct solution is to allow the utility to buy supply from non-firm customers at the daily market price. In New York City, that price should be that Transco Zone 6 daily price, or the customer's fuel oil cost, whichever is higher.

26. Is there currently a communication protocol to discuss interruptions with all impacted parties as the winter season progresses? What is the protocol? Is it adequate or is it in need of revision? What revisions do you recommend?

CPA made improving communication protocols a priority in its advocacy before the Commission. Our members have long worked with Con Ed to develop effective communication methods, and as a result, they have eliminated OFO and interruption violations in recent years. This effort continues.

CPA believes that this process should be the model for all utilities. Rather than a Commission imposed rule, the parties should work together to assure effective and timely communication. Given the differences among the various utilities and customer organizations, and the relatively short notice required for operational reasons, one rule for all situations is very likely to be unworkable, at least for some customers.

Thank you for the opportunity to offer these comments.

Respectfully Submitted,

Catherine Luthin

Executive Director, Consumer Power Advocates