

## **SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 35-28076; 70-10074)**

**National Fuel Gas Company, *et al.***

### **Supplemental Order Authorizing Extension of Time to Engage in Financing Transactions**

**December 19, 2005**

National Fuel Gas Company (“NFG”), a registered holding company, National Fuel Gas Distribution Corporation (“Distribution”), a public-utility subsidiary company of NFG, and NFG’s nonutility subsidiary companies, National Fuel Gas Supply Corporation, Horizon Energy Development, Inc. and its subsidiaries, Highland Forest Resources, Inc. and its subsidiaries, Leidy Hub, Inc., Data-Track Account Services, Inc., Horizon LFG, Inc. and its subsidiaries, Horizon Power, Inc. and its subsidiaries, all located in Williamsville, New York, Seneca Resources Corporation and its subsidiaries, Houston, Texas, and National Fuel Resources, Inc., Williamsville, New York (Distribution and NFG’s nonutility subsidiary companies are collectively referred to as, “Subsidiaries”), have filed a post-effective amendment with the Securities and Exchange Commission (“Commission”) to their application-declaration filed under sections 6(a), 7, 9(a), 10, 12(b), 12(f), and 13 of the Public Utility Holding Company Act of 1935, as amended (“Act”) and rules 45, 53 and 54 under the Act. A notice of the post-effective amendment was issued on November 15, 2005 (HCAR No. 28064).

By order dated November 12, 2002 (HCAR NO. 27600) (“Prior Order”) the Commission authorized NFG and its Subsidiaries (“Applicants”) to engage in financing and related transactions through December 31, 2005 (“Authorization Period”).

Specifically, the Commission authorized: (i) NFG to increase equity and long-term debt

capitalization in an aggregate amount of up to an additional \$1.5 billion, excluding any common stock issued under NFG's shareholder rights plan, and to utilize the proceeds to make investments in its Subsidiaries, and for other corporate purposes; (ii) NFG to issue and sell from time to time up to \$750 million principal amount of unsecured short-term debt securities such as commercial paper and notes issued under credit facilities; (iii) NFG and the Subsidiaries to enter into interest rate hedges with respect to outstanding indebtedness and to enter into certain anticipatory interest rate hedging transactions; (iv) NFG to guarantee securities of its Subsidiaries and provide other forms of credit support with respect to obligations of its Subsidiaries as may be necessary in the ordinary course of business in an aggregate amount not to exceed \$2 billion outstanding at any one time; (v) NFG to continue to administer the NFG system money pool ("Money Pool") and invest surplus funds in the Money Pool and for the Subsidiaries to invest surplus funds and make borrowing from the Money Pool subject to certain limitations; (vi) NFG and the nonutility subsidiary companies to organize and acquire the securities of one or more entities ("Financing Subsidiary") formed for the purpose of effecting financing transaction for NFG and its Subsidiaries and to guarantee the obligations of such Financing Subsidiaries; (vii) NFG and the Subsidiaries to change the terms of any majority-owned nonutility subsidiary authorized capitalization; and (viii) NFG to consolidate or otherwise reorganize all or any part of its direct and indirect ownership interest in nonutility subsidiaries.

Under the Prior Order the Commission reserved jurisdiction over (i) the issuance of securities by NFG and are rated below investment grade, and (ii) the solicitation of

shareholder approvals in connection with the adoption of any new stock-based plan or the extension or amendment of any existing stock-based plan.

Applicants are now requesting that the Commission extend the Authorization Period from December 31, 2005 to and including February 8, 2006. Applicants are not requesting any other changes to the terms, conditions, and limitations imposed under the Prior Order.

The proposed transaction is subject to rule 54 under the Act, which provides that the Commission shall not consider the effect of the capitalization or earnings of subsidiaries of a registered holding company that are exempt wholesale generators (“EWGs”) or foreign utility companies (“FUCOs”) in determining whether to approve other transactions if rule 53(a), (b) and (c) are satisfied. These standards are currently met. As of September 30, 2005, NFG’s “aggregate investment,” as defined in rule 53(a)(1), in EWGs and FUCOs was \$46,119,253, or approximately 5.9% of NFG’s average consolidated retained earnings for the four quarters ended September 30, 2005, or \$785,193,000.

Applicants state that the fees, commissions and expenses incurred or to be incurred by the Applicants in connection with filing the post-effective amendment are not expected to exceed \$3,000. Applicants state that the New York Public Service Commission and the Pennsylvania Public Utility Commission have jurisdiction over and have authorized Distribution’s utilization of interest rate hedges. Applicants state that no other state or federal commission or agency other than this Commission has jurisdiction over the proposed transactions.

Due notice of the filing of the post-effective amendment has been given in the manner prescribed in rule 23 under the Act, and no hearing has been requested of, or ordered by, the Commission. On the basis of the facts in the record, it is found that, except as to those matters over which jurisdiction has been reserved, the applicable standards of the Act and rules under the Act are satisfied, and that no adverse findings are necessary.

IT IS ORDERED, under the applicable provisions of the Act and rules under the Act, that, except as to those matter over which jurisdiction has been reserved, the post-effective amendment of National Fuel Gas Company, et al. (70-10074) be granted and permitted to become effective immediately, subject to the terms and conditions prescribed in rule 24 under the Act.

IT IS FURTER ORDERED, that jurisdiction continue to be reserved over (i) the issuance of securities by NFG and are rated below investment grade, and (ii) the solicitation of shareholder approvals in connection with the adoption of any new stock-

based plan or the extension or amendment of any existing stock-based plan, pending completion of the record.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz  
Secretary