



MEMORANDUM IN OPPOSITION

SB4158(Krueger) / AB4870A (Simon) – NY HEAT ACT

The New York Home Energy Affordable Transition Act (NY HEAT Act) authorizes the Public Service Commission (“PSC”) to, for the first time in history, decommission or discontinue the gas distribution system as of January 1, 2030, purportedly to meet the goals of the Climate Leadership and Community Protection Act (“CLCPA”). As of that date, residential gas customers could have their gas service discontinued without their consent. The bill also makes sweeping amendments to the Public Service Law to change the obligation of gas utility companies to serve new and existing customers.

National Fuel opposes the subject bill as a general matter because a core premise of the bill, that the natural gas distribution system must be decommissioned or gas service to consumers discontinued in order to meet the emission reduction goals of the CLCPA, is patently inaccurate. The CLCPA does not mandate discontinuance of the natural gas system, and the continued operation of a modernized natural gas system paired with low- and no-carbon fuels, hybrid heating and weatherization is entirely consistent with attainment of the statute’s emission reduction goals. Indeed, use of a decarbonized natural gas system will be necessary to achieve these reductions in a responsible way that ensures the continued reliability, resilience and affordability of energy in the State.

Further, adoption of the bill’s provisions would be premature given the State Energy Plan (“SEP”) process initiated by the SEP Board in September. As part of that process, a SEP will be developed that considers the state’s energy goals and long-range energy planning objectives as they relate to all of its energy systems, including the natural gas system and the potential use of alternative fuels such as renewable natural gas and hydrogen to decarbonize that system. In addition, the PSC has been engaged in an ongoing gas planning process in Case 20-G-0131 (“Gas Planning Proceeding”) that directly addresses the future of the natural gas system for each of the state’s major combination and gas only utilities. This planning process involves the utilities, third-party experts, and a number of stakeholder groups, including environmental advocacy groups. Through this proceeding, each natural gas utility is required to, among other things, develop a long-term plan that details the future actions necessary to align the gas distribution system with the CLCPA. National Fuel’s Long-Term Plan has been finalized and the PSC ordered implementation of the Plan beginning in December 2023. As part of that implementation, National Fuel is authorized to move forward with initiatives related to hybrid heating, energy efficiency and the use of alternative fuels to decarbonize its natural gas system. The other major New York utilities are also developing and/or implementing their long-term plans, which include similar initiatives.

Issues being addressed in the Gas Planning Proceeding include: affordability; the pace of electrification and the ability of the electric system to reliably provide all of New York's heating needs in each region of the State; the future role of alternative fuels, such as renewable natural gas and hydrogen; future capital investment in the gas distribution system and the appropriate use of non-pipe alternatives; and potential changes to PSC policy concerning new applications for service and main and/or service line extensions. Critically, the Gas Planning Proceeding is focused on ensuring that natural gas utilities continue to provide safe and reliable service during the state's energy transformation. Planning for this transformation involves the examination of a number of complex issues which may impact each utility differently given that each utility's service territory is unique. For example, reliability is important for all utilities, but especially for National Fuel, as its service territory frequently experiences frigid temperatures and extreme winter weather events. Rather than decommissioning the natural gas system in a region that desperately needs it, the legislature should focus on addressing emissions issues in parts of the state like New York City and Nassau and Suffolk Counties where the U.S. Census Bureau's American Community Survey (<https://data.census.gov/>) identifies approximately 743,000 households using fuel oil or kerosene for heating fuel in 2022.

Given the broad spectrum of complex issues being considered in the Gas Planning and SEP Proceedings, as well as the pending development of the *Greenhouse Gas Emissions Reduction Pathway Study* in connection with the PSC's CLCPA Implementation Proceeding (Case 22-M-0149), it is inappropriate to adopt the provisions in the NY HEAT Act before the future role of a decarbonized natural gas distribution system has been clearly defined. There is no question that the ultimate goal of the NY HEAT Act is to ban natural gas and decommission a natural gas system that the state and its energy leaders are actively evaluating as an effective energy decarbonization tool. To propose the premature discontinuance of a valuable energy resource, in the face of mounting evidence of affordability and reliability concerns associated with an enormous build-out of the electric system and increasing challenges around the development of renewable resources to flow on that system, is simply irresponsible. National Fuel believes that sweeping statutory changes impacting the provision of natural gas service and energy delivery generally in New York should be informed by the pending Gas Planning and SEP Proceedings and the utility-specific long-term plans approved by the PSC. At that point, the Legislature would be in a better position to review the issues and determine whether any statutory changes are necessary and advisable in the overall context of energy reliability and affordability in the state.

Finally, the proposed legislation also directs the PSC to develop a plan to ensure that all residential customers be adequately protected from bearing an energy burden greater than 6% of their household income, including the costs to purchase and operate electric equipment needed to reduce emissions. In implementing the plan the PSC must prioritize low-to-moderate income customers, including those already eligible for its energy affordability programs. Any cost overrun under this provision would presumably be socialized into the rates of the remaining customers, undermining the affordability goals of the bill, and having an inflationary impact on goods and services where businesses pass on those costs to consumers. Supporters of this provision, including the Senate sponsor, have claimed the 6% cap would save 25% of all New York households an average of \$136 each month. A modest estimate puts that unfunded subsidy

at roughly \$3 Billion annually and more than half of households could see between a \$544 and \$800 annual increase to cover the costs of this cap. There is no consideration for who would pay for the estimated \$20k-\$50k to electrify all households currently using gas. While the legislature is certainly free to impose taxes and redistribute income wherever it likes, the NY HEAT Act proposes to do it in a way that is opaque to the utility customers who, through higher utility rates, will be paying the bill.

Further, capping energy costs has the ironic consequence of disincentivizing energy efficiency and reduced energy use in households receiving the discount, undermining the material progress made in this area by the PSC, New York State Energy Research and Development Authority ("NYSERDA") and utilities, and ongoing efforts to further accelerate that progress. Why limit energy usage or install efficiency measures when the price you pay for energy is capped, regardless of usage? Reducing energy use through building envelope and energy efficiency improvements has the most immediate impact on reducing energy costs and emissions for customers.

Decommissioning entire neighborhoods off the gas system will inevitably have downstream reliability, cost and economic development impacts. Due to the interconnected nature of the gas system, when one neighborhood's gas system is disconnected it will inevitably impact the reliability of the gas service provided to the next neighborhood and impede the maintenance of system pressures. The proposal makes no consideration for homes and businesses that may have and need back up gas generators, offering no in-kind replacement for a natural gas generator thus compromising safety during extreme cold and storm events. When businesses and manufacturers who require gas for operations lose access to it, they will be forced to relocate, likely out of state, causing economic and potentially emissions leakage. These serious repercussions resulting from NY HEAT's extreme provisions are not justified given the amount of responsible, thoughtful attention already being paid to emissions reductions on the gas system as noted above. Further, the PSC in its meticulous evaluation of the utilities' gas system modernization programs has recognized them as being entirely consistent with the CLCPA and as having enhanced energy reliability, reduced leakage rates and costs and resulted in material reductions in system emissions. National Fuel's system alone has reduced Scope 1 greenhouse gas emissions by 67% since 1990.

Based on the foregoing, National Fuel respectfully requests that this proposed legislation not receive affirmative consideration.