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NATIONAL FUEL GAS CO
Form POS AMC
December 19, 2005

(As filed December 19, 2005)

File No. 70-10074

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

POS AMC

Post-Effective Amendment No. 2

(Amendment No. 4)

to

FORM U-1

APPLICATION OR DECLARATION

UNDER THE

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

NATIONAL FUEL GAS COMPANY
NATIONAL FUEL GAS DISTRIBUTION CORPORATION
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
6363 Main Street
Williamsville, New York 14221

SENECA RESOURCES CORPORATION AND ITS SUBSIDIARIES
1201 Louisiana Street, Suite 400
Houston, Texas 77002

NATIONAL FUEL RESOURCES, INC.
165 Lawrence Bell Drive, Suite 120
Williamsville, New York 14221

(Names of companies filing this statement and
addresses of principal executive offices)

NATIONAL FUEL GAS COMPANY

(Name of top registered holding company parent)

Philip C. Ackerman
Chairman of the Board, President, and Chief Executive Officer
National Fuel Gas Company
6363 Main Street
Williamsville, New York 14221

(Name and address of agent for service)

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The Commission is requested to send copies of all notices, orders and communications in connection with this Application or Declaration to:

James P. Baetzhald, Esq.
National Fuel Gas Company
6363 Main Street
Williamsville, New York 14221

Andrew F. MacDonald, Esq.
Thelen Reid & Priest LLP
701 Eighth Street, N.W.
Washington, DC 20001

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Post-Effective Amendment No. 1 in this proceeding, as filed on October 27, 2005, is hereby amended as follows:

1. Item 3 - Applicable Statutory Provisions, is amended and restated to read as follows:

3.1 General. Sections 6(a), 7, 9(a), 10, 12(b), 12(f) and 13(b) of the Act are applicable to the transactions approved under the Prior Order.

3.2 Compliance with Rules 53 and 54. The transactions proposed herein are also subject to Rules 53 and 54. Under Rule 53(a), the Commission shall not make certain specified findings under Sections 7(d) and 12 of the Act in connection with a proposal by a holding company to issue securities for the purpose of acquiring the securities of or other interest in an EWG, or to guarantee the securities of an EWG, if each of the conditions in paragraphs (a)(1) through (a)(4) thereof are met, provided that none of the conditions specified in paragraphs (b)(1) through (b)(3) of Rule 53 exists. Rule 54 provides that the Commission shall not consider the effect of the capitalization or earnings of subsidiaries of a registered holding company that are EWGs or FUCOs in determining whether to approve other transactions if Rule 53(a), (b) and (c) are satisfied. These standards are currently met.

Rule 53(a)(1): As of September 30, 2005, National's "aggregate investment" in EWGs and FUCOs was \$46,119,253, or approximately 5.9% of National's average "consolidated retained earnings" for the four quarters ended September 30, 2005 (\$785,193,000).

Rule 53(a)(2): National will maintain books and records enabling it to identify investments in and earnings from each EWG and FUCO in which it directly or indirectly acquires and holds an interest. National will cause each domestic EWG in which it acquires and holds an interest, and each foreign EWG and FUCO that is a majority-owned subsidiary, to maintain its books and records and prepare its financial statements in conformity with U.S. GAAP. All of such books and records and financial statements will be made available to the Commission, in English, upon request.

Rule 53(a)(3): No more than 2% of the employees of Distribution (National's sole domestic public utility subsidiary) will, at any one time, directly or indirectly, render services to EWGs and FUCOs.

Rule 53(a)(4): National will submit a copy of the Application or Declaration in this proceeding and each amendment thereto, and will submit copies of any Rule 24 certificates required hereunder, as well as a copy of Item 9 of National's Form U5S and Exhibits G and H thereof, to each of the public service commissions having jurisdiction over the retail rates of Distribution.

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In addition, National states that the provisions of Rule 53(a) are not made inapplicable to the authorization herein requested by reason of the occurrence or continuance of any of the circumstances specified in Rule 53(b).

2. Item 4 - Regulatory Approvals, is amended and restated to read as follows:

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 through December 31, 2008. No other state commission, and no federal commission, other than the Commission, has jurisdiction over any of the other proposed transaction.

3. Item 6 - Exhibits and Financial Statements, is amended and restated to read as follows:

A. EXHIBITS.

G-1 Proposed Form of Federal Register Notice (previously filed).

B. FINANCIAL STATEMENTS.

- 1.1 Balance Sheet of National and consolidated subsidiaries, as of September 30, 2005 (incorporated by reference to National's Annual Report on Form 10-K for the fiscal year ended September 30, 2005) (File No. 1-3880).
- 1.2 Statements of Income of National and consolidated subsidiaries for the twelve months ended September 30, 2005 (incorporated by reference to National's Annual Report on Form 10-K for the fiscal year ended September 30, 2005) (File No. 1-3880).
- 1.3 [omitted]
- 1.4 [omitted]
- 1.5 Balance Sheet of Distribution, as of June 30, 2005 (previously filed).
- 1.6 Statement of Income of Distribution for the twelve months ended June 30, 2005 (previously filed).

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SIGNATURES

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, as amended, the undersigned companies have duly caused this Post-Effective Amendment filed herein to be signed on their behalves by the undersigned thereunto duly authorized.

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NATIONAL FUEL GAS COMPANY
HORIZON ENERGY DEVELOPMENT, INC.
DATA-TRACK ACCOUNT SERVICES, INC.

By: /s/ Philip C. Ackerman

Name: Philip C. Ackerman
Title: President

NATIONAL FUEL GAS DISTRIBUTION
CORPORATION

By: /s/ Dennis J. Seeley

Name: Dennis J. Seeley
Title: President

NATIONAL FUEL GAS SUPPLY CORPORATION

By: /s/ David F. Smith

Name: David F. Smith
Title: President

HORIZON POWER, INC.
HORIZON LFG, INC.

By: /s/ Duane A. Wassum

Name: Duane A. Wassum
Title: Assistant Vice President

(signatures continued on next page)

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NATIONAL FUEL RESOURCES, INC.

By: /s/ Donna L. DeCarolis

Name: Donna L. DeCarolis
Title: President and Secretary

SENECA RESOURCES CORPORATION
HIGHLAND FOREST RESOURCES, INC.

By: /s/ James A. Beck

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Name: James A. Beck
Title: President

LEIDY HUB, INC.

By: /s/ J. R. Pustulka

Name: J. R. Pustulka
Title: Senior Vice President and
Secretary

Date: December 19, 2005

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