

NATIONAL FUEL GAS CO
Form 35-CERT
March 01, 2004

UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

In the Matter of

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.
LEIDY HUB, INC.
DATA-TRACK ACCOUNT SERVICES, INC.
SENECA INDEPENDENCE PIPELINE COMPANY
SENECA RESOURCES CORPORATION
AND ITS SUBSIDIARIES
UPSTATE ENERGY INC.
NIAGARA INDEPENDENCE MARKETING COMPANY
NATIONAL FUEL RESOURCES, INC.
HORIZON POWER, INC.

FOURTH
CERTIFICATE
PURSUANT TO
RULE 24

File No. 70-10074
(Public Utility Holding Company Act of 1935)

THIS IS TO CERTIFY, pursuant to Rule 24, that certain transactions proposed by National Fuel Gas Company (National) and its subsidiaries, National Fuel Gas Distribution Corporation (Distribution Corporation), National Fuel Gas Supply Corporation (Supply Corporation), Horizon Energy Development, Inc. (Horizon Energy) and its subsidiaries, Highland Forest Resources, Inc. (Highland), Leidy Hub, Inc. (Leidy), Data-Track Account Services, Inc. (Data-Track), Seneca Independence Pipeline Company (SIP), Seneca Resources Corporation (Seneca) and its subsidiaries, Upstate Energy Inc. (Upstate), Niagara Independence Marketing Company (NIM), National Fuel Resources, Inc. (NFR) and Horizon Power, Inc. (Power) (collectively, the Subsidiaries), in their Application-Declaration on Form U-1, as amended (Application-Declaration), in SEC File No. 70-10074, have been carried out in accordance with the terms and conditions of, and for the purposes as represented by, said Application-Declaration and the Order of the Securities and Exchange Commission (Commission) (HCAR No. 35-27600, dated November 12, 2002) with respect thereto.

1. **EXTERNAL FINANCING BY NATIONAL**

a. **Common Stock**

During the quarter ended December 31, 2003 (the Quarter), National issued the following shares of common stock through the following plans:

| <u>Name Of Plan</u> | <u>Number of Newly Issued Shares</u> | <u>Number of Shares Purchased in Open Market</u> |
|--|--------------------------------------|--|
| Direct Stock Purchase and Dividend Reinvestment Plan | 116,435 | -0- |
| Tax Deferred Savings Plans (401(k)) | 76,710 | -0- |
| Employee Stock Ownership Plan | -0- | 10,853 |

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| Name Of Plan | Number of Newly Issued Shares | Number of Shares Purchased in Open Market |
|--|-------------------------------|---|
| 1997 Award & Option Plan | 5,400 | -0- |
| 1993 Award & Option Plan | 20,676 | -0- |
| 1984 Stock Plan | -0- | -0- |
| 1983 Incentive Stock Option Plan | -0- | -0- |
| Retainer Policy for Outside Directors | 2,400 | -0- |
| Total | 221,621 | 10,853 |
| Aggregate gross consideration received upon issuance of shares: \$5,046,908. | | |

Other than as set forth above, National did not issue or sell any common stock during the Quarter. National did not issue any common stock as consideration in connection with any acquisition during the Quarter.

During the Quarter, the Compensation Committee of the Board of Directors of National did not award any stock appreciation rights, stock options, restricted stock, performance units, performance shares or other common stock-based awards.

b. Preferred Securities

National has no preferred securities outstanding.

c. Long-term Debt

National did not issue or redeem any long-term debt during the Quarter.

d. Stock Purchase Contracts and Stock Purchase Units

National did not issue any stock purchase contracts or stock purchase units during the Quarter.

e. Short-term Debt

(1) Short-term Notes

National issued short-term notes (in all cases having maturities of no more than 270 days) to banks or other financial institutions during the Quarter. The maximum amount of such notes outstanding at any time during the Quarter was \$83,200,000.

(2) Commercial Paper

National sold commercial paper during the Quarter through Merrill Lynch Money Markets, Inc., J.P. Morgan Securities Inc. and/or Goldman, Sachs & Co. The maximum amount of commercial paper outstanding at any time during the Quarter was \$96,800,000.

(3) Total Short-term Debt

The maximum aggregate amount of short-term debt securities of National outstanding at any time during the Quarter was \$149,500,000.

2. FINANCING SUBSIDIARIES AND SPECIAL PURPOSE SUBSIDIARIES

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National did not organize any new Financing Subsidiaries or Special Purpose Subsidiaries during the Quarter.

National's Financing Subsidiaries and Special Purpose Subsidiaries are as follows:

| | Seneca Player Corp. | 3062782 Nova Scotia Co. | 3062783 Nova Scotia Co. |
|---|----------------------------------|--|--|
| Balance sheet account where investment and cost booked | fully consolidated into National | fully consolidated into National | fully consolidated into National |
| Form of organization | corporation | unlimited liability company | unlimited liability company |
| Percentage owned by National or a Nonutility Subsidiary | 100% | 100% | 100% |
| Identification of other owners if not 100% owned | N/A | N/A | N/A |
| Purpose of investment in subsidiary | increase tax efficiencies | increase tax efficiencies | increase tax efficiencies |
| Securities authorized to be issued | 1,000 shares of common stock | 1,000,000 shares, in such classes, and with such rights and conditions, as directors may determine | 1,000,000 shares, in such classes, and with such rights and conditions, as directors may determine |

Information regarding National's investments in these subsidiaries is filed confidentially pursuant to Rule 104(b).

3. FINANCING BY SUBSIDIARIES

Distribution Corporation issued short-term debt securities through the system money pool (Money Pool) as set forth below under Section 4. The Nonutility Subsidiaries did not engage in financing transactions other than exempt transactions.

4. MONEY POOL

During the Quarter, National coordinated the borrowing requirements of certain Subsidiaries through the money pool. For each participant in the Money Pool, the following

table lists the maximum amount of borrowings through, and the maximum amount of investments made in, the Money Pool during the Quarter:

| | Maximum Borrowings Through Money Pool (\$) | Maximum Investments in Money Pool (\$) |
|--------------------------|---|---|
| National | n/a | 45,200,000 |
| Distribution Corporation | 121,500,000 | 0 |
| Supply Corporation | 0 | 38,500,000 |
| Horizon Energy | n/a | 700,000 |
| Highland | 20,700,000 | 0 |
| Leidy | 0 | 800,000 |
| Data-Track | 0 | 500,000 |
| SIP | 14,400,000 | 0 |
| Seneca | 0 | 25,000,000 |
| Upstate | 48,300,000 | 0 |
| NIM | 0 | 0 |
| NFR | 0 | 37,000,000 |

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| | Maximum Borrowings Through Money Pool (\$) | Maximum Investments in Money Pool (\$) |
|-------|--|--|
| Power | n/a | 0 |

The interest rates applied to Money Pool borrowings and investments during the Quarter are set forth in Exhibit 1 hereto, which is incorporated herein by reference.

5. GUARANTEES

During the Quarter, National issued one guarantee on behalf of Distribution Corporation in the amount of \$27,000,000, one guaranty on behalf of Seneca Energy II, LLC in the amount of \$1,312,500, and four guarantees on behalf of NFR, in the following amounts: \$2,000,000, \$8,000,000, \$50,000,000 and \$4,000,000.

The maximum amount of guarantees and credit support that National had outstanding on behalf of its Subsidiaries at any time during the Quarter was \$613,135,754. The guarantees and credit support relate primarily to: (i) obligations under derivative financial instruments, which are included on the consolidated balance sheet in accordance with Statement of Financial Accounting Standards No. 133; (ii) NFR obligations to purchase gas or to purchase gas transportation/storage services where the amounts due on those obligations each month are included on National's consolidated balance sheet as a current liability; and (iii) other obligations which are reflected on National's consolidated balance sheet. National believes that the likelihood it would be required to make payments under the guarantees is remote.

6. HEDGING TRANSACTIONS

During the Quarter, National did not enter into any Interest Rate Hedges or Anticipatory Hedges.

7. CHANGES IN CAPITAL STRUCTURE OF MAJORITY-OWNED NONUTILITY SUBSIDIARIES

None.

8. NONUTILITY SUBSIDIARY REORGANIZATIONS

None.

9. OTHER ITEMS

National filed a Form U-6B-2 on October 9, 2003 and on November 26, 2003.

National's consolidated balance sheet as of December 31, 2003 is included in National's Form 10-Q for the quarter ended December 31, 2003 and is incorporated herein by reference.

Distribution Corporation's balance sheet as of December 31, 2003 is set forth in Exhibit 2 hereto, which is incorporated herein by reference and filed confidentially pursuant to Rule 104(b).

SIGNATURES

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, the undersigned companies have duly caused this First Certificate Pursuant to Rule 24 to be signed on their behalf by the undersigned thereunto duly authorized.

NATIONAL FUEL GAS COMPANY

By: /s/ P. C. Ackerman
P. C. Ackerman
Chairman, President & CEO

NATIONAL FUEL GAS DISTRIBUTION
CORPORATION

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By: /s/ D. F. Smith
D. F. Smith
President

NATIONAL FUEL GAS SUPPLY CORPORATION

By: /s/ D. J. Seeley
D. J. Seeley
President

HORIZON ENERGY DEVELOPMENT, INC.

By: /s/ P. C. Ackerman
P. C. Ackerman
President

HIGHLAND FOREST RESOURCES, INC.

By: /s/ J. A. Beck
J. A. Beck
President

LEIDY HUB, INC.

By: /s/ W. E. DeForest
W. E. DeForest
President

DATA-TRACK ACCOUNT SERVICES, INC.

By: /s/ P. C. Ackerman
P. C. Ackerman
President

SENECA INDEPENDENCE PIPELINE COMPANY

By: /s/ W. E. DeForest
W. E. DeForest
President, Secretary & Treasurer

SENECA RESOURCES CORPORATION

By: /s/ J. A. Beck
J. A. Beck
President

UPSTATE ENERGY INC.

By: /s/ B. H. Hale
B. H. Hale
President

NIAGARA INDEPENDENCE MARKETING COMPANY

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By: /s/ T. L. Atkins
T. L. Atkins
Treasurer

NATIONAL FUEL RESOURCES, INC.

By: /s/ D. L. DeCarolis
D. L. DeCarolis
Vice President and Secretary

HORIZON POWER, INC.

By: /s/ B. H. Hale
B. H. Hale
President

Dated: March 1, 2004

EXHIBIT 1

Money Pool Interest Rates

The interest rate applied to Money Pool borrowings is the same for all participants that borrow through the Money Pool. The interest rate applied to Money Pool investments is the same for all participants that invest in the Money Pool.

| Date | Interest Rate Applied to Borrowings | Interest Rate Applied to Investments |
|-------------|--|---|
| 10/01/2003 | 1.18% | 1.18% |
| 10/02/2003 | 1.18% | 1.18% |
| 10/03/2003 | 1.16% | 1.16% |
| 10/04/2003 | 1.16% | 1.16% |
| 10/05/2003 | 1.16% | 1.16% |
| 10/06/2003 | 1.16% | 1.16% |
| 10/07/2003 | 1.17% | 1.17% |
| 10/08/2003 | 1.17% | 1.17% |
| 10/09/2003 | 1.16% | 1.16% |
| 10/10/2003 | 1.16% | 1.16% |
| 10/11/2003 | 1.16% | 1.16% |
| 10/12/2003 | 1.16% | 1.16% |
| 10/13/2003 | 1.16% | 1.16% |
| 10/14/2003 | 1.17% | 1.17% |
| 10/15/2003 | 1.20% | 1.20% |
| 10/16/2003 | 1.22% | 1.22% |
| 10/17/2003 | 1.21% | 1.21% |
| 10/18/2003 | 1.21% | 1.21% |
| 10/19/2003 | 1.21% | 1.21% |
| 10/20/2003 | 1.15% | 1.15% |
| 10/21/2003 | 1.14% | 1.14% |
| 10/22/2003 | 1.14% | 1.14% |
| 10/23/2003 | 1.13% | 1.13% |
| 10/24/2003 | 1.14% | 1.14% |
| 10/25/2003 | 1.14% | 1.14% |

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| Date | Interest Rate Applied to Borrowings | Interest Rate Applied to Investments |
|-------------|--|---|
| 10/26/2003 | 1.14% | 1.14% |
| 10/27/2003 | 1.19% | 1.19% |
| 10/28/2003 | 1.14% | 1.14% |
| 10/29/2003 | 1.14% | 1.14% |
| 10/30/2003 | 1.13% | 1.13% |
| 10/31/2003 | 1.13% | 1.13% |

| Date | Interest Rate Applied to Borrowings | Interest Rate Applied to Investments |
|-------------|--|---|
| 11/01/2003 | 1.13% | 1.13% |
| 11/02/2003 | 1.13% | 1.13% |
| 11/03/2003 | 1.13% | 1.13% |
| 11/04/2003 | 1.14% | 1.14% |
| 11/05/2003 | 1.13% | 1.13% |
| 11/06/2003 | 1.14% | 1.14% |
| 11/07/2003 | 1.13% | 1.13% |
| 11/08/2003 | 1.13% | 1.13% |
| 11/09/2003 | 1.13% | 1.13% |
| 11/10/2003 | 1.13% | 1.13% |
| 11/11/2003 | 1.13% | 1.13% |
| 11/12/2003 | 1.13% | 1.13% |
| 11/13/2003 | 1.13% | 1.13% |
| 11/14/2003 | 1.13% | 1.13% |
| 11/15/2003 | 1.13% | 1.13% |
| 11/16/2003 | 1.13% | 1.13% |
| 11/17/2003 | 1.14% | 1.14% |
| 11/18/2003 | 1.14% | 1.14% |
| 11/19/2003 | 1.14% | 1.14% |
| 11/20/2003 | 1.15% | 1.15% |
| 11/21/2003 | 1.13% | 1.13% |
| 11/22/2003 | 1.13% | 1.13% |
| 11/23/2003 | 1.13% | 1.13% |
| 11/24/2003 | 1.13% | 1.13% |
| 11/25/2003 | 1.13% | 1.13% |
| 11/26/2003 | 1.14% | 1.14% |
| 11/27/2003 | 1.14% | 1.14% |
| 11/28/2003 | 1.14% | 1.14% |
| 11/29/2003 | 1.14% | 1.14% |
| 11/30/2003 | 1.14% | 1.14% |

| Date | Interest Rate Applied to Borrowings | Interest Rate Applied to Investments |
|-------------|--|---|
| 12/01/2003 | 1.14% | 1.14% |
| 12/02/2003 | 1.14% | 1.14% |
| 12/03/2003 | 1.14% | 1.14% |
| 12/04/2003 | 1.14% | 1.14% |
| 12/05/2003 | 1.13% | 1.13% |
| 12/06/2003 | 1.13% | 1.13% |

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| Date | Interest Rate Applied to Borrowings | Interest Rate Applied to Investments |
|------------|---|--|
| 12/07/2003 | 1.13% | 1.13% |
| 12/08/2003 | 1.12% | 1.12% |
| 12/09/2003 | 1.11% | 1.11% |
| 12/10/2003 | 1.13% | 1.13% |
| 12/11/2003 | 1.11% | 1.11% |
| 12/12/2003 | 1.12% | 1.12% |
| 12/13/2003 | 1.12% | 1.12% |
| 12/14/2003 | 1.12% | 1.12% |
| 12/15/2003 | 1.13% | 1.13% |
| 12/16/2003 | 1.14% | 1.14% |
| 12/17/2003 | 1.14% | 1.14% |
| 12/18/2003 | 1.15% | 1.15% |
| 12/19/2003 | 1.15% | 1.15% |
| 12/20/2003 | 1.15% | 1.15% |
| 12/21/2003 | 1.15% | 1.15% |
| 12/22/2003 | 1.17% | 1.17% |
| 12/23/2003 | 1.20% | 1.20% |
| 12/24/2003 | 1.20% | 1.20% |
| 12/25/2003 | 1.20% | 1.20% |
| 12/26/2003 | 1.23% | 1.23% |
| 12/27/2003 | 1.23% | 1.23% |
| 12/28/2003 | 1.23% | 1.23% |
| 12/29/2003 | 1.21% | 1.21% |
| 12/30/2003 | 1.21% | 1.21% |
| 12/31/2003 | 1.21% | 1.21% |